

EXHIBIT 246

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5
6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 :
10 APPLIES TO ALL CASES : NO.
11 :
12 : 1:17-MD-2804
13 :
14 :

15 - HIGHLY CONFIDENTIAL -

16 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

17 - - -

18 November 28, 2018

19 - - -

20 Videotaped deposition of
21 WILLIAM DE GUTIERREZ-MAHONEY, taken
22 pursuant to notice, was held at the law
23 offices of Covington & Burling, LLP, The
24 New York Times Building, 620 Eighth
25 Avenue, New York, New York, beginning at
26 9:08 a.m., on the above date, before
27 Michelle L. Gray, a Registered
28 Professional Reporter, Certified
29 Shorthand Reporter, Certified Realtime
30 Reporter, and Notary Public.

31 - - -

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1 - - -

2 I N D E X

3 - - -

4

5 Testimony of:

6 WILLIAM DE GUTIERREZ-MAHONEY

7

8 By Mr. Bogle 20, 550

9

10 By Mr. Bowden 301

11

12 By Mr. Schmidt 483, 599

13

14 - - -

15 E X H I B I T S

16 - - -

17

18 NO. DESCRIPTION PAGE

19 MCK

20 Mahoney-1 DEA Letter, 9/27/06 43

21 MCKMDL00478906-09

22 P1.1464

23

24 MCK

25 Mahoney-2 Memo, 5/4/18 55

26 Subject, Hearing

27 Entitled Combating

28 The Opioid Epidemic

29 P1.264

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9		P1.851	
10	MCK		
11	Mahoney-4	Slide Deck	70
12		McKesson's Regulatory Program	
13		Lakeland ISMC Meeting 8/2014	
14		MCKMDL00651331-69	
15		P1.1968	
16	MCK		
17	Mahoney-5	E-mail Thread	81
18		6/10/14 Subject, 2014 NSC	
19		Regulatory Updates to DC Ops	
20		MCKMDL00403517	
21		P1.1434	
22	MCK		
23	Mahoney-6	Prescription Drug Abuse	87
24		The National Perspective	
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10		P1.1951	
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12	Mahoney-13	Accumulated ARCOS Purchases from McKesson	178
13		MCKMDL00496550-63	
14		P1.1952	
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16	Mahoney-14	Avee ARCOS Purchases from McKesson	182
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18		P1.1953	
19	MCK		
20	Mahoney-15	MediPharm ARCOS Purchases from McKesson	184
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22		P1.1958	
23	MCK		
24	Mahoney-16	The Ledger Pharmacy Raided By DEA Agents	186
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8		Subject, Internet Presentation with McKesson Corp on 9/1/05	
9		MCKMDL00496859-75	
10		P1.1946	
11	MCK		
12	Mahoney-8	Memo, 1/23/06	112
13		Subject, Meeting Between OD and McKesson Corp on 1/3/06	
14		MCKMDL00496876-78	
15		P1.1789	
16	MCK		
17	Mahoney-9	E-mail 1/18/06	125
18		Subject, Letter to DEA Re Internet Pharmacies	
19		MCKMDL00571360-65	
20		P1.1963	
21	MCK		
22	Mahoney-10	Pleadings	131
23		Volume I	
24		MCKMDL-00496306-525	
		P1.1943	
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10	Mahoney-18	E-mail 9/25/07	199
11		Subject, DEA Notes & DEA Notes	
12		MCKMDL00536448-50	
13		P1.1997	
14	MCK		
15	Mahoney-19	Settlement and Release Agreement & Administrative Memorandum of Agreement	213
16		MCKMDL00337001-71	
17		P1.889	
18	MCK		
19	Mahoney-20	E-mail 3/7/08	219
20		Subject, Regulatory Meeting 3/5 & 3/6	
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23	MCK		
24	Mahoney-21	Presentation to the US Attorney's Office 3/12/14	233
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7	Mahoney-22	E-mail Thread	240
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13	Mahoney-23	E-mail Thread	252
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29	Mahoney-25	E-mail Thread	287
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31		Subject, New DEA	
32		Ordering Standards	
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14	Mahoney-31	E-mail, 4/27/12	354
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21		Authorization	
22		To Purchase	
23		Methadone 40mg	
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27	Mahoney-33	Methadone Block	374
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7	Mahoney-26	E-mail Thread	294
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14		MCKMDL00516749-65	
15		P1.1743	
16	MCK		
17	Mahoney-27	E-mail Thread	304
18		4/15/11	
19		Subject, CSMP	
20		Contribution, DCM Call	
21		MCKMDL00507221-23	
22		P1.1680	
23	MCK		
24	Mahoney-28	E-mail Thread	314
25		4/20/11	
26		Subject, Internal	
27		Audit Report	
28		Confidential	
29		MCKMDL00498057-89	
30		P1.1783	
31	MCK		
32	Mahoney-29	E-mail Thread	328
33		10/23/08	
34		Subject, Giant Eagle	
35		CSMP Thresholds	
36		MCKMDL00628660-73	
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5	NO.	DESCRIPTION	PAGE
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7	Mahoney-35	E-mail Thread	401
8		11/3/11	
9		Subject, Just Had a	
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11		MCKMDL00497904-05	
12		P1.1697	
13	MCK		
14	Mahoney-36	E-mail Thread	414
15		10/26/11	
16		Subject, Rite Aid 3182	
17		MCKMDL00632916-17	
18		P1.1990	
19	MCK		
20	Mahoney-37	E-mail Thread	424
21		3/11/13	
22		Subject, HDMA Notes	
23		MCKMDL00545341-47	
24		P1.1941	
25	MCK		
26	Mahoney-38	E-mail Thread	432
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28		Subject, HDMA CSMP	
29		Guidelines	
30		MCKMDL00545132-34	
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5	NO.	DESCRIPTION	PAGE
6	MCK		
7	Mahoney-39	E-mail Thread	439
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11		Codes	
12		MCKMDL00411372-76	
13		P1.1971	
14	MCK		
15	Mahoney-40	US DOJ Letter	455
16		8/13/14	
17		Subject, Possible	
18		Civil Action Against	
19		McKesson	
20		MCKMDL00409224-46	
21		P1.1433	
22	Mahoney-41	UD DOJ Letter	461
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24		Subject, Registration	
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5	NO.	DESCRIPTION	PAGE
6	MCK		
7	Mahoney-43	E-mail Thread	511
8		12/10/07	
9		Subject, November	
10		LDMP	
11		MCKMDL00540033-35	
12		P1.1864	
13	MCK		
14	Mahoney-44	Skipped	
15	MCK		
16	Mahoney-45	Skipped	
17	MCK		
18	Mahoney-46	Skipped	
19	MCK		
20	Mahoney-47	Skipped	
21	MCK		
22	Mahoney-48	Skipped	
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5	NO.	DESCRIPTION	PAGE
6	MCK		
7	Mahoney-51	Controlled	578
8		Substance Monitoring	
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11		Overview	
12		11/6/08	
13		MCKMDL00545075-94	
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5	Direction to Witness Not to Answer		
6	PAGE LINE		
7	None.		
8	Request for Production of Documents		
9	PAGE LINE		
10	None.		
11	Stipulations		
12	PAGE LINE		
13	None.		
14	Questions Marked		
15	PAGE LINE		
16	None.		
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<p style="text-align: right;">Page 18</p> <p>1 THE VIDEOGRAPHER: We are 2 now on the record. My name is 3 Henry Marte, the videographer with 4 Golkow Litigation Services. 5 Today's date is November 28, 6 2018. And the time is 9:08 a.m. 7 This videotaped deposition 8 is being held at Covington and 9 Burling LLP, located at 620 Eighth 10 Avenue, New York, New York, in the 11 matter of National Prescription 12 Opiate Litigation. 13 The deponent today is 14 William de Gutierrez-Mahoney. 15 Counsel, please introduce 16 themselves for the record, which 17 after the court reporter will 18 administer the oath to the 19 witness. 20 MR. BOGLE: Brandon Bogle on 21 behalf of plaintiffs. 22 MR. BOWDEN: Wes Bowden on 23 behalf of plaintiffs. 24 MR. LIVINGSTON: Scott</p>	<p style="text-align: right;">Page 20</p> <p>1 of the protective order. But if 2 that's not true as to anyone, 3 please correct me. 4 MR. BOGLE: I think that's 5 accurate. 6 MS. MUSKETT: Michelle, did 7 you get Fox Rothschild. 8 MS. ONYEFORO: Lucy Onyeforo 9 of Allegaert, Berger & Vogel is on 10 the phone as well for Rochester 11 Drug Corporation. 12 - - - 13 ... WILLIAM DE GUTIERREZ-MAHONEY, 14 having been first duly sworn, was 15 examined and testified as follows: 16 - - - 17 EXAMINATION 18 - - - 19 BY MR. BOGLE: 20 Q. Good morning, Mr. Mahoney. 21 How are you doing? 22 A. Good morning. Good. 23 Q. My name is Brandon Bogle, 24 I'm going to be asking you some questions</p>
<p style="text-align: right;">Page 19</p> <p>1 Livingston on behalf of Defendant, 2 HBC. 3 MR. RICARD: Paul Ricard on 4 behalf of Prescription Supply. 5 MS. DURFEE: Laura Jane 6 Durfee on behalf of Walmart. 7 MS. McNAMARA: Colleen 8 McNamara, on behalf of Cardinal 9 Health. 10 MS. CALLAS: Gretchen Callas 11 on behalf of AmerisourceBergen. 12 MS. DORRIS: Lauren Dorris 13 on behalf of McKesson. 14 MR. SCHMIDT: Paul Schmidt 15 on behalf of McKesson. 16 And let me just say, if I 17 may, I don't know what the prior 18 practice has been, I meant to 19 check this, but my understanding 20 is that everyone in the room and 21 everyone on the phone is 22 subjective to the protective order 23 and the deposition will be covered 24 by the confidentiality provisions</p>	<p style="text-align: right;">Page 21</p> <p>1 today. 2 Just starting out for the 3 record, can I get your full name, please? 4 A. William de 5 Gutierrez-Mahoney. 6 Q. Okay. And have you ever had 7 your deposition taken before? 8 A. I've been deposed in other 9 matters, but not with opioids. 10 Q. Right. And I'm talking 11 generally in this sense. So how many 12 times have you been deposed in any sort 13 of matter prior to today? 14 A. Once. Once. 15 Q. Once. What was the general 16 subject matter in that deposition? 17 A. It was -- it was a murder 18 case, and the question was about chain of 19 custody. 20 Q. Okay. Were you testifying 21 in some law enforcement capacity? 22 A. It was a criminal case. And 23 the state wanted to know if the product 24 that had been used in the crime had come</p>

Page 22

1 from McKesson.
2 Q. Okay. So you were working
3 for McKesson at that point in time?
4 A. Yes.
5 Q. Okay. So just to kind of
6 refresh you a little bit on a deposition,
7 just sort of the basics, I'm going to ask
8 you some questions today. I'll do my
9 very best to ask my question, give you
10 every opportunity to answer before I ask
11 my next question.
12 I'll also ask that even if
13 you think you know where I'm going, if
14 you can let me get my full question out
15 there before you answer so that we don't
16 step on each others' toes, I think that
17 the court reporter will appreciate that.
18 Is that fair?
19 A. Yes.
20 Q. Okay. And you can take a
21 break whenever you want. It's not an
22 endurance contest. Just tell myself or
23 your own counsel here. The only thing I
24 ask is if I've got a question pending, if

Page 23

1 you could answer that question and we can
2 break for whenever -- however you want.
3 And the last thing is if you
4 don't understand or don't hear something
5 that I say, ask me to repeat or rephrase.
6 I'll do my best to make it clear to you.
7 But if you answer my question, I'm going
8 to assume that you understood it. Is
9 that fair?
10 A. Yes.
11 Q. Okay. Where are you
12 currently employed?
13 A. At McKesson.
14 Q. Okay. And how long have you
15 been with McKesson?
16 A. I've been with McKesson for
17 17-plus years.
18 Q. Okay. So starting
19 approximately 2001; is that right?
20 A. Yes.
21 Q. Okay. What was your job in
22 2001 when you started, job title?
23 A. I joined McKesson as a
24 business process manager.

Page 24

1 Q. Was that at Lakeland?
2 A. Our facility in Florida at
3 that time was in Tampa.
4 Q. Okay. How long did you have
5 that position?
6 A. I think I had it between
7 let's say one year and two years.
8 Q. Okay. What was your next
9 job at McKesson after that?
10 A. It was assistant
11 distribution center manager.
12 Q. Was it in the Tampa
13 facility?
14 A. Yes.
15 Q. How long did you have that
16 job? Just the years is fine.
17 A. Until '04.
18 Q. Okay. And beginning in '04,
19 it's my understanding that you took the
20 role as distribution center manager for
21 the Lakeland facility; is that right?
22 A. Yes.
23 Q. Okay. And you held that
24 position from 2004 until approximately

Page 25

1 December 2007; is that right?
2 A. Yes.
3 Q. Beginning in January 2008
4 you took over as director of regulatory
5 affairs for the southeast region, fair?
6 A. Yes.
7 Q. Okay. Has that been your
8 job title from January 2008 to the
9 present?
10 A. Yes.
11 Q. Okay. Now, just so I
12 understand, when we talk about the
13 southeast region, can you give me a sense
14 of what that encompasses, whether it be
15 states or distribution centers or however
16 that's divided out at McKesson.
17 A. Initially, I was responsible
18 for six distribution centers, in
19 Lakeland; Atlanta; Birmingham, Alabama;
20 Memphis, Tennessee; Conroe, Texas; and
21 Oklahoma City.
22 Q. Okay. And you said
23 initially. So at some point in time, did
24 that change?

Page 26

1 A. Yes.
2 Q. When did that change?
3 A. We brought on another person
4 in 2013. And at that point I was
5 responsible for Birmingham, Lakeland, and
6 Atlanta.
7 Q. Who is the person that was
8 brought on in 2013?
9 A. Linda Martin. There's been
10 a subsequent change too.
11 Q. Okay. What was that? First
12 of all, when did that subsequent change
13 occur?
14 A. I believe it happened in the
15 middle of 2014.
16 Q. Okay. What changed?
17 A. Jerry Carmack joined. And
18 he picked up Memphis and Birmingham.
19 Linda moved to Texas and Oklahoma City,
20 and I was responsible for Atlanta and
21 Lakeland.
22 MR. SCHMIDT: And I
23 apologize. I can appreciate if
24 you were running something off the

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1 screen. Do you have a copy of
2 whatever you're running?
3 MR. BOGLE: I haven't marked
4 anything yet. I'm not -- we can
5 take that down. I haven't marked
6 anything yet. It's not supposed
7 to be on the screen yet. Yeah, we
8 certainly will when we go through
9 it.
10 MR. SCHMIDT: I understand.
11 BY MR. BOGLE:
12 Q. Okay. So I didn't catch the
13 last part there. So I apologize. I'm
14 going to repeat part of this so I
15 understand. I want to know from your
16 perspective in mid-2014, which facilities
17 you were responsible for from a
18 regulatory perspective?
19 A. From then on --
20 Q. Yes, sir.
21 A. -- I became responsible for
22 Atlanta and Lakeland.
23 Q. Atlanta and Lakeland. Has
24 that been true from mid-2014 to present?

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1 A. Yes.
2 Q. Now, going back to the time
3 that you were distribution center manager
4 for Lakeland, would that have encompassed
5 running the day-to-day operations for the
6 distribution center?
7 A. Yes.
8 Q. Okay. And can you just give
9 me a general sense, again, as a
10 distribution center manager for Lakeland,
11 what your general job responsibilities
12 were?
13 A. I was responsible for hiring
14 and enabling the distribution center to
15 service its customer base. We would
16 receive product from manufacturers, stock
17 the shelves, and process orders in the
18 evening for delivery the following day.
19 Q. Okay. And the time period
20 that you had that role from '04 to '07,
21 there would also have been
22 responsibilities under the Controlled
23 Substances Act that would have fallen
24 within your purview, right?

Page 29

1 A. Yes.
2 Q. Okay. That would include,
3 for example, suspicious order monitoring
4 for controlled substances, right?
5 A. Yes.
6 Q. Okay. And can you give me a
7 sense of what your role during that time
8 period would have been from that
9 perspective of suspicious order
10 monitoring?
11 A. Was responsible for
12 management of the cage and vault. And we
13 had a system that we used to compare
14 orders of controlled substances with a
15 moving average of their prior orders on
16 an item basis for those products.
17 Q. Okay. And it's my general
18 understanding that what you're talking
19 about here is that during the time period
20 of '04 to '07 when you had that role,
21 there would be a report called a DU-45
22 report generated which told you whether
23 the -- for a Schedule II or Schedule III
24 controlled substance the customer was

<p style="text-align: right;">Page 30</p> <p>1 three times or more above their average 2 purchases, right? 3 A. Yes. 4 Q. And are you also familiar 5 with, at that point in time, DR-46 6 report? 7 A. Not -- I don't recall that 8 specifically. I may understand it if I 9 see it. 10 Q. Sure. No, and right now I'm 11 just asking your recollection. So if you 12 don't recall, that's fine. 13 A. Right. 14 Q. Okay. The Lakeland 15 distribution center, we'll start with '04 16 to '07 time frame, what -- geographically 17 what states did that cover as far as a 18 customer base? 19 A. In '04, I think we covered 20 actually some portions -- the geography 21 that we covered moved between '04 and 22 '06 -- 23 Q. Okay. 24 A. -- because of the Florida</p>	<p style="text-align: right;">Page 32</p> <p>1 manufacturer and -- or actually the 2 distributor who bought it from the 3 manufacturer and the pharmacy or entity 4 to which it was sold. 5 Q. Would it be fair to say that 6 it's sort of similar to what you 7 mentioned before in the respect that you 8 testified before, sort of a chain of 9 custody throughout the lifecycle of the 10 product to establish at all times it was 11 a legitimate product? 12 A. Right. 13 Q. Okay. And let me ask my 14 other question maybe a different way. 15 From 2004 to present, has the Lakeland 16 distribution center serviced customers in 17 the State of Florida? 18 A. Yes. 19 Q. Okay. You mentioned the 20 term "diversion" in your answer just a 21 minute ago. What do you understand the 22 term "diversion" to mean? 23 A. Where a product is 24 inappropriately taken out of the normal</p>
<p style="text-align: right;">Page 31</p> <p>1 pedigree law. 2 Q. Okay. 3 A. And the decision was made to 4 basically make Lakeland the primary with 5 only one -- one or two backups, vehicle 6 for delivering -- acquiring and 7 delivering pedigree product to conform 8 with the Florida pedigree law. 9 Q. When you say pedigree 10 product, I want to make sure that our 11 jury understands what that means. What 12 is a pedigree product? 13 A. Because of investigations 14 which observed that there is companies or 15 entities were counterfeiting product or 16 repackaging it in a way that undermined 17 its efficacy and whether it was safe for 18 the public, Florida implemented the 19 Florida pedigree law. And initially they 20 chose 30 drugs that they viewed as being 21 subject to diversion that way. 22 And they required a pedigree 23 on who had bought the various 24 transactions which took place between the</p>	<p style="text-align: right;">Page 33</p> <p>1 supply chain. In this case, one of the 2 modes was that customers would buy a 3 product and then attempt to return 4 altered or not pedigree product into the 5 supply chain. 6 Q. Okay. And the concept of 7 diversion is -- it can be broader than 8 that, right? 9 A. Sure, sure. 10 Q. Okay. Are there any other 11 examples of diversion that you can think 12 of? 13 A. Yeah. There is -- I guess, 14 not chain. There's diversion that used 15 to take place between closed door 16 pharmacies and independent retail 17 pharmacies in which pricing which was 18 offered to closed door pharmacies would 19 be diverted into the normal chain of 20 independent flow, at which it would be 21 able to be sold for higher prices. That 22 was something that the manufacturers 23 really clamped down on. 24 And then there's diversion</p>

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1 of controlled substances.
2 Q. Okay. And the concept of
3 diversion, as I read it, is sort of
4 generally defined as the use of a drug
5 for an illegitimate medical purpose. Do
6 you think that's a fair general
7 statement?
8 A. Particularly in the case of
9 controls.
10 Q. Right. Is that a fair
11 general statement for controlled
12 substances?
13 A. Yes.
14 Q. Okay. So prior to taking on
15 your role as director of regulatory
16 affairs in 2008, did you have any prior
17 experience working in a regulatory
18 capacity for any company?
19 A. No.
20 Q. Okay. What kind of training
21 did you get when you came on to sort of
22 learn your regulatory responsibilities?
23 A. There was training
24 associated with our responsibilities,

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1 with the CSA. We had training on a new
2 system that we were using to help us
3 administer our controlled substances
4 monitoring program.
5 Q. Okay. And you said CSA.
6 And, again, I just want to make sure
7 we're clear on what everything means
8 here. That's the Controlled Substance
9 Act?
10 A. Yes, sir.
11 Q. Okay. I saw a reference
12 somewhere to you previously working for
13 Cardinal Health; is that right?
14 A. I worked -- yes.
15 Q. Okay. What period of time
16 did you work there?
17 A. I worked for Cardinal from
18 March of '98 to the summer of 2000.
19 Q. Okay. What did you do
20 generally for Cardinal?
21 First of all, what was your
22 job title? Let's start there.
23 A. Job title was director of
24 operations.

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1 Q. Was that for a distribution
2 center?
3 A. Yes.
4 Q. Where?
5 A. In Lakeland.
6 Q. Okay. Were your job
7 responsibilities similar there to what
8 they were at McKesson when you were
9 distribution center manager?
10 A. Yes.
11 Q. Okay. You worked for --
12 did -- had you worked for any other
13 pharmaceutical distributors prior to
14 working for Cardinal?
15 A. No.
16 Q. And McKesson is a
17 distributor of pharmaceutical products,
18 right?
19 A. Yes.
20 Q. And you would agree that a
21 distributor of pharmaceutical products,
22 the most important consideration for a
23 company like that should be protecting
24 the health and safety of the public,

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1 right?
2 A. Yes.
3 Q. And obviously the deposition
4 today is going to focus largely on opioid
5 products. You understand that, right?
6 A. Yes.
7 Q. That's what we're here to
8 talk about?
9 A. Yes.
10 Q. And you are familiar with
11 opioids, right?
12 A. Yes.
13 Q. Okay. And McKesson has
14 distributed opioids during the time that
15 you've worked with the company, right?
16 A. Yes.
17 Q. And opioids are a controlled
18 substance, right?
19 A. Yes.
20 Q. And opioids are -- fall into
21 the category of a narcotic drug, right?
22 A. Yes.
23 Q. And you mentioned the
24 Controlled Substance Act. During the

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1 time that you've been with McKesson, the
 2 Controlled Substances Act has been on the
 3 book so to speak, right? It's something
 4 the company has had to comply with,
 5 right?
 6 A. Yes.
 7 Q. And I assume that that's a
 8 statute you're familiar with, right?
 9 A. Yes. The company has boiled
 10 down if you will the -- the relevant
 11 aspects of the CS, the Controlled
 12 Substance Act into policies and
 13 procedures that we follow within the DC.
 14 Q. Okay. And one of those
 15 policies and procedures, at least
 16 starting in 2008, was the controlled
 17 substance monitoring program, right?
 18 A. Yes.
 19 Q. Okay. And the controlled
 20 substance monitoring program was
 21 generally designed so that the company
 22 could comply with the requirements of the
 23 Controlled Substances Act, right?
 24 A. Yes.

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1 Q. And the Controlled
 2 Substances Act generally is designed to
 3 prevent diversion of controlled
 4 substances, right, that's the purpose of
 5 it?
 6 A. Of the -- of the Controlled
 7 Substances Act?
 8 Q. Yes, sir.
 9 A. Yes. Among other things.
 10 Q. Okay. That's included
 11 within its purposes, fair?
 12 A. Yes.
 13 Q. Okay. And from your
 14 perspective as an employee at McKesson,
 15 you would agree that compliance with the
 16 Controlled Substances Act is important,
 17 right?
 18 A. Yes.
 19 Q. In fact, it's been mandatory
 20 at the company since you've been there,
 21 right?
 22 A. Yes.
 23 Q. And so I just want to kind
 24 of walk through some of the, as you would

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1 understand it, requirements of McKesson
 2 under the Controlled Substances Act.
 3 One of those would be to
 4 have effective controls against
 5 diversion, right?
 6 A. Yes.
 7 Q. Another would be monitoring
 8 for suspicious controlled substance
 9 orders, right?
 10 A. Yes.
 11 Q. Another would be reporting
 12 suspicious orders to the DEA when those
 13 are detected by the company, right?
 14 A. Yes.
 15 Q. And another would be
 16 blocking suspicious orders, meaning not
 17 supplying them to the customer, when
 18 McKesson detected a suspicious order,
 19 right?
 20 MR. SCHMIDT: Objection.
 21 Foundation.
 22 BY MR. BOGLE:
 23 Q. You can still answer unless
 24 he tells you not to answer.

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1 A. Okay. Can you repeat that?
 2 Q. Sure, I can.
 3 One of the requirements
 4 since you've been with McKesson under the
 5 Controlled Substances Act has been to
 6 block, meaning not ship, suspicious
 7 orders when the company detected them?
 8 MR. SCHMIDT: Same
 9 objection.
 10 THE WITNESS: There has been
 11 a clarification certainly since
 12 2004, but I think before 2008, in
 13 terms of that requirement to block
 14 the suspicious orders.
 15 BY MR. BOGLE:
 16 Q. Okay. I want to make sure I
 17 understand what you're saying there then.
 18 So is it your understanding
 19 that prior to 2008 that McKesson did not
 20 have the obligation to block suspicious
 21 orders when detected?
 22 A. We -- we reported suspicious
 23 orders as detected by the DU-45 at that
 24 point.

<p style="text-align: right;">Page 42</p> <p>1 Q. Right. I think my question 2 is a little -- a little more narrow than 3 that. My question was simply, did you 4 have an understanding in your role at 5 McKesson that the company had an 6 obligation under the Controlled 7 Substances Act prior to 2008 to block 8 suspicious orders when the company found 9 them? 10 A. If we found that a customer 11 was operating suspiciously, we would 12 disengage with that customer and not sell 13 them controlled substances. 14 Q. Okay. So to make sure I 15 understand here. So, is it your 16 understanding from when you started at 17 the company -- we'll start from 2002 when 18 you took over as assistant district -- or 19 assistant distribution center manager. 20 From 2002 to present, was 21 there any period of time where it was 22 your understanding that the company did 23 not have an obligation to block 24 suspicious orders when detected?</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Okay. Have you seen this 2 letter before today? 3 A. Yes. 4 Q. Okay. Did you see it in and 5 around 2006? 6 A. Yes. 7 Q. Okay. How was it -- how did 8 you come to see it in and around 2006? 9 A. It may have been addressed 10 to me at the DC. But I also saw it via 11 e-mail internally. 12 Q. Okay. All right. So I want 13 to discuss a few portions of this letter. 14 The first paragraph there 15 says, "This letter is being sent to every 16 commercial entity in the United States 17 registered with the Drug Enforcement 18 Administration to distribute controlled 19 substances. The purpose of this letter 20 is to reiterate the responsibilities of 21 controlled substance distributors in view 22 of the prescription drug abuse problem 23 our nation currently faces." 24 Do you see that?</p>
<p style="text-align: right;">Page 43</p> <p>1 A. No. 2 MR. SCHMIDT: Objection. 3 Form. 4 (Document marked for 5 identification as Exhibit 6 MCK-Mahoney-1) 7 BY MR. BOGLE: 8 Q. Okay. I'm going to hand you 9 what's marked as Exhibit 1.1464. Also 10 marked as Exhibit 1 to your deposition. 11 And the beginning Bates number is 12 MCK_MDL_00478906. 13 Here's your copy. And this 14 is a long table, sir, so I'm not trying 15 to throw stuff at you, I swear. 16 Okay. So looking at 17 Exhibit 1 here. Let me introduce it and 18 then I want to ask you some questions 19 about it. 20 Do you see this is a letter 21 from the U.S. Department of Justice Drug 22 Enforcement Administration dated 23 September 27, 2006. Do you see that? 24 A. Yes.</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Yes. 2 Q. Okay. And McKesson in 2006 3 was registered with the DEA to distribute 4 controlled substances, right? 5 A. Yes. 6 Q. And if you go down to the 7 third paragraph on the first page. And 8 I'm in the -- let's start with the first 9 sentence. It says, "The CSA was designed 10 by Congress to combat diversion by 11 providing for a closed system of drug 12 distribution in which all legitimate 13 handlers of controlled substances must 14 obtain a DEA registration, and as a 15 condition of maintaining such 16 registration, must take reasonable steps 17 to ensure that their registration's not 18 being utilized as a source of diversion. 19 Distributors are, of course, one of the 20 key components of the distribution chain. 21 If the closed system is to function 22 properly as Congress envisioned, 23 distributors must be vigilant in deciding 24 whether a prospective customer can be</p>

<p style="text-align: right;">Page 46</p> <p>1 trusted to deliver controlled substances 2 only for lawful purposes." 3 Did I read that correctly? 4 A. Yes. 5 Q. Okay. There's a reference 6 here to a closed system in this regard. 7 What do you understand a closed system to 8 mean? 9 A. A closed system is a system 10 in which the -- the drugs are initiated 11 at a manufacturer, usually acquired by 12 distributor. Could be sent to another 13 distributor, or to a pharmacy. 14 The prescription is 15 initiated with the -- the doctor. And 16 the distributor delivers the drugs to the 17 pharmacy, and the pharmacy fills scripts 18 which are initiated by the doctor. 19 Q. And in a closed system in -- 20 in the concept of controlled substances 21 means that essentially you have to have 22 this DEA registration in order to be able 23 to prescribe or distribute or manufacture 24 controlled substances, right?</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. It says, "The DEA 2 regulations require all distributors to 3 report suspicious orders of controlled 4 substances. Specifically the regulations 5 state in 21 C.F.R. 1301.74(b), "The 6 registrant shall design and operate a 7 system to disclose to the registrant 8 suspicious orders of controlled 9 substances. The registrant shall inform 10 the field division office of the 11 administration in his area of suspicious 12 orders when discovered by the registrant. 13 Suspicious orders include orders of 14 unusual size, orders deviating 15 substantially from a normal pattern, and 16 orders of unusual frequency." 17 Do you see that? 18 A. Yes. 19 Q. And that paragraph I just 20 read that's from the C.F.R., that's a 21 paragraph that you're familiar with, 22 right? 23 A. Yes. 24 Q. And then it goes on to say,</p>
<p style="text-align: right;">Page 47</p> <p>1 A. Yes. 2 Q. Okay. Okay. Look at the 3 next sentence here. It says, "This 4 responsibility is critical as Congress 5 has expressly declared that the illegal 6 distribution of controlled substances has 7 a substantial and detrimental effect on 8 the health and general welfare of the 9 American people." 10 Do you see that? 11 A. Yes. 12 Q. Do you agree with that 13 sentence? 14 MR. SCHMIDT: Objection. 15 Foundation. 16 THE WITNESS: Yes. 17 BY MR. BOGLE: 18 Q. And turning to the second 19 page of this document, one more section 20 that I wanted to look at with you. 21 You see in the middle of the 22 page there where it says the DEA 23 regulations require? Do you see that? 24 A. Yes.</p>	<p style="text-align: right;">Page 49</p> <p>1 "It bears emphasis that the foregoing 2 reporting requirement is in addition to, 3 and not in lieu of, the general 4 requirement under 21 U.S.C. 823(e) that a 5 distributor maintain effective controls 6 against diversion. Thus, in addition to 7 reporting all suspicious orders, a 8 distributor has statutory responsibility 9 to exercise due diligence to avoid 10 filling suspicious orders that might be 11 diverted into other than a legitimate 12 medical, scientific, and industrial 13 channels." 14 Do you see that? 15 A. Yes. 16 Q. And these -- this additional 17 duty to avoid filling here, that's what 18 we talked about earlier which is the duty 19 to block suspicious orders when they're 20 detected, right? 21 A. Yes. 22 Q. Okay. And would you agree 23 that reporting suspicious orders to the 24 DEA is important because it allows the</p>

<p style="text-align: right;">Page 50</p> <p>1 DEA to decide whether it wants to 2 investigate whether diversion is 3 occurring as to the order you're 4 reporting? 5 MR. SCHMIDT: Objection. 6 Foundation. 7 THE WITNESS: I'm not sure 8 what the DEA used the information 9 that we sent to them for. 10 BY MR. BOGLE: 11 Q. Okay. Did you have a sense, 12 during your time with McKesson, as to why 13 you guys do -- I guess do that, why you 14 report suspicious orders? 15 A. Because it's required by the 16 statute. 17 Q. Okay. Anything beyond that? 18 A. Well, in the times that I've 19 tried to share information with the DEA, 20 I haven't really gotten much feedback. 21 And when we -- over time, we've reported 22 suspicious orders in different ways and 23 really don't see much of a correlation 24 between whether or how much reporting</p>	<p style="text-align: right;">Page 52</p> <p>1 complied with by a majority of the 2 participants, diversion can still 3 occur. 4 BY MR. BOGLE: 5 Q. Okay. So you would not 6 agree then that diversion of opioids 7 specifically can be prevented through 8 compliance with the Controlled Substance 9 Act? 10 MR. SCHMIDT: Same 11 objection. 12 THE WITNESS: Are you 13 talking about relative to 14 distributors? 15 BY MR. BOGLE: 16 Q. Yeah. We can start there. 17 A. Okay. Can you repeat the 18 question? 19 Q. Sure. Do you agree or 20 disagree that compliance with the 21 Controlled Substance Act by distributors 22 like McKesson is important to prevent 23 diversion? 24 A. Yes.</p>
<p style="text-align: right;">Page 51</p> <p>1 takes place and activity, you know, from 2 the DEA. 3 Q. Okay. So do you have a 4 sense as to whether -- actually, strike 5 that. 6 Would you agree with me that 7 blocking a suspicious order is important 8 because it ensures that potential 9 diversion does not occur with that order? 10 MR. SCHMIDT: Same 11 objection. Foundation. 12 THE WITNESS: That's the 13 intent, yes. 14 BY MR. BOGLE: 15 Q. Okay. And diversion of 16 controlled substances, including opioids 17 can be prevented by compliance with the 18 Controlled Substance Act, right? 19 MR. SCHMIDT: Same 20 objection. 21 THE WITNESS: I think there 22 are a lot of different 23 participants. And even if 24 Controlled Substance Act is</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Okay. Do you agree that 2 there is an ongoing opioid epidemic in 3 the United States? 4 A. Yes. 5 Q. And that epidemic has been 6 going on for more than a decade in this 7 country, right? 8 MR. SCHMIDT: Objection. 9 Foundation. 10 THE WITNESS: I'm not sure 11 exactly when it began. 12 BY MR. BOGLE: 13 Q. Okay. Well, when do you 14 first recall any -- just a year would be 15 fine, when do you first recall being made 16 aware at McKesson that there was an 17 opioid epidemic? 18 A. I'm not sure. 19 Q. Okay. Any sense of a 20 general time frame? 21 A. Well, in this letter, he 22 refers to -- 23 Q. Are you back at Exhibit 1? 24 A. Yeah.</p>

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1 Q. Okay. That's fine. Say
2 what you want to say. Just making sure.
3 A. I'm just saying that it's
4 identified as substantial and detrimental
5 effect on the health and general welfare
6 of the U.S. people.
7 Q. Right.
8 A. But it wasn't termed "opioid
9 epidemic" at that point.
10 Q. Okay. So I guess going back
11 to my prior question then, do you have
12 any general recollection of when you may
13 have become aware at McKesson that there
14 was an opioid epidemic in this country?
15 A. Again, the characterization,
16 I'm not sure if that entered my
17 awareness -- 2008, 2010. Somewhere in
18 there.
19 Q. Somewhere in that time
20 frame. Okay. And are you aware that
21 opioid overdoses are the leading cause of
22 injury-related death in the United
23 States?
24 A. I'm not sure about that.

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1 Q. Okay.
2 A. I've heard that for
3 different age groups and that kind of
4 thing. But I'm not sure.
5 Q. Okay. Why don't we take a
6 look at something here with you on that
7 point. I'm going to hand you 1.264,
8 which is marked as Exhibit 2.
9 (Document marked for
10 identification as Exhibit
11 MCK-Mahoney-2.)
12 BY MR. BOGLE:
13 Q. This is a public document.
14 So no Bates numbers.
15 MR. SCHMIDT: You can throw
16 it. I know you're not being rude.
17 It's a big table.
18 BY MR. BOGLE:
19 Q. Okay. Mr. Mahoney, what
20 I've handed you -- here again, I'll
21 introduce it, and we'll kind of go from
22 there -- is a document from May 4, 2018,
23 from the U.S. House of Representatives
24 Committee on Energy and Commerce.

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1 Do you see that?
2 A. Mm-hmm.
3 Q. Okay. Have you seen this
4 document before?
5 A. I don't think I've seen this
6 document.
7 Q. Okay. Do you see that the
8 line at the top notes, "Regarding hearing
9 entitled 'Combating the Opioid Epidemic:
10 Examining Concerns About Distribution and
11 Diversion.'"
12 Do you see that?
13 A. Yes.
14 Q. Okay. And if you look here,
15 on that first page, there's a section
16 that lists witnesses for the hearing.
17 A. Yes.
18 Q. Do you see that section?
19 A. Mm-hmm.
20 Q. And you see the third person
21 listed there is a John H. Hammergren --
22 A. Yes.
23 Q. -- president and CEO of
24 McKesson. Do you see that?

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1 A. Mm-hmm.
2 Q. Okay. And you are familiar
3 with Mr. Hammergren, right?
4 A. Yes.
5 Q. Okay. I mean, you know who
6 he is, right?
7 A. Yeah.
8 Q. Okay. Were you aware that
9 he testified before Congress in 2018?
10 A. Yes.
11 Q. Yes. What information were
12 you provided about his testimony?
13 A. I believe I watched it.
14 Q. Okay. So you did watch at
15 least portions of this hearing that we're
16 talking about here?
17 A. Yes.
18 Q. Okay. So going to the
19 second page of this document, and I'm
20 looking at the paragraph below the chart
21 that says, "The U.S. continues."
22 A. Okay.
23 Q. Do you see that?
24 It says, "The U.S. continues

<p style="text-align: right;">Page 58</p> <p>1 to experience an opioid epidemic which 2 has worsened over the last two decades. 3 Opioid-involved overdose deaths are the 4 leading cause of injury death in the U.S. 5 and take the lives of 115 Americans per 6 day. According to a recent report issued 7 by the Centers For Disease Control and 8 Prevention, CDC, prescription or illicit 9 opioids were involved in nearly 10 two-thirds of all drug overdose deaths in 11 the U.S. during 2016, a 27.7 percent 12 increase from 2015. 13 "In total, more than 351,000 14 people have died since 1999 due to an 15 opioid-involved overdose. The crisis has 16 become so severe that the average life 17 expectancy declined in 2016 from the 18 previous year largely because of opioid 19 overdoses." 20 Do you see that there? 21 A. Yes. 22 Q. Okay. Prior to looking at 23 this today, were you aware that the life 24 expectancy, at least in 2016, had</p>	<p style="text-align: right;">Page 60</p> <p>1 BY MR. BOGLE: 2 Q. We talked a little bit 3 earlier about your involvement at the 4 Lakeland distribution center, initially 5 as the assistant distribution center 6 manager -- I think that was the title 7 that you gave me -- then distribution 8 center manager, and then as director of 9 regulatory affairs responsible for 10 Lakeland. We talked about that earlier, 11 right? 12 A. Yes. 13 Q. Okay. So Florida -- let me 14 back up. Strike that. 15 Do you live in Florida? 16 A. I do. 17 Q. Okay. How long have you 18 lived in Florida? 19 A. About 20 years. 20 Q. Okay. So being a Florida 21 resident in addition to being an employee 22 of McKesson in the capacities that we've 23 discussed, you understand that Florida 24 has been hit very hard by the opioid</p>
<p style="text-align: right;">Page 59</p> <p>1 declined largely because of opioid 2 overdoses? 3 MR. SCHMIDT: Objection. 4 Foundation. 5 THE WITNESS: I had heard 6 that life expectancy had gone 7 down. But I hadn't attributed it 8 necessarily to just opioids. 9 Suicide, depression. There 10 were a lot of different things in 11 what I had seen. 12 BY MR. BOGLE: 13 Q. Okay. But you've never seen 14 the reference similar to the one here 15 that decline, at least from 2016 versus 16 2015, was largely because of opioid 17 overdoses? 18 A. I hadn't seen that sentence, 19 no. 20 Q. Any reason to dispute that 21 finding? 22 A. No. 23 MR. SCHMIDT: Same 24 objection.</p>	<p style="text-align: right;">Page 61</p> <p>1 epidemic, correct? 2 A. Yes. 3 Q. Are you familiar with Gary 4 Boggs at McKesson? 5 A. Yes, mm-hmm. 6 Q. Did you know him in any 7 capacity prior to him joining the 8 company? 9 A. I may have met him before. 10 But I didn't know him. 11 Q. Okay. You do know that he 12 was with the DEA prior to joining 13 McKesson, right? 14 A. Yes. 15 Q. And he works in the 16 regulatory affairs department at McKesson 17 presently, right? 18 A. Yes. 19 Q. And has for the past five 20 years or so, right? 21 A. Yes. 22 (Document marked for 23 identification as Exhibit 24 MCK-Mahoney-3.)</p>

<p style="text-align: right;">Page 62</p> <p>1 BY MR. BOGLE:</p> <p>2 Q. I'm going to hand you what</p> <p>3 I'm marking Exhibit 1.851, also marked as</p> <p>4 Exhibit 3.</p> <p>5 MR. SCHMIDT: Bill, when</p> <p>6 you're done with the exhibits,</p> <p>7 I'll just put them here. If we</p> <p>8 need to go back to any earlier</p> <p>9 ones --</p> <p>10 MR. BOGLE: Yeah, we may</p> <p>11 bounce a little back and forth.</p> <p>12 But --</p> <p>13 MR. SCHMIDT: I'll help you</p> <p>14 with that, which should be</p> <p>15 terrifying to everyone in the</p> <p>16 room. I'll do my best.</p> <p>17 BY MR. BOGLE:</p> <p>18 Q. All right. So Exhibit 3</p> <p>19 here, also marked as 1.851, is a</p> <p>20 PowerPoint slide deck titled "State of</p> <p>21 Prescription Drug Abuse." The author is</p> <p>22 noted to be Gary Boggs.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 64</p> <p>1 A. Mm-hmm.</p> <p>2 Q. Is that a yes?</p> <p>3 A. Yes.</p> <p>4 Q. I'm sorry, I'm not trying to</p> <p>5 be rude, just want to make sure --</p> <p>6 A. No, I understand --</p> <p>7 understand.</p> <p>8 Q. The concept of a pill mill,</p> <p>9 what does that mean to you?</p> <p>10 A. The way I envision the pill</p> <p>11 mill is a doctor, doctor or doctor's</p> <p>12 office, in which people are seeing the</p> <p>13 doctor and getting opioids on the way</p> <p>14 out.</p> <p>15 Q. Okay.</p> <p>16 A. So from my exposure or</p> <p>17 things that I've seen, it would be a high</p> <p>18 volume-type operation.</p> <p>19 Q. Okay. In the term "pill</p> <p>20 mill" as used generally in -- strike</p> <p>21 that.</p> <p>22 The term "pill mill" when</p> <p>23 you are talking about the sales of</p> <p>24 controlled substances is -- has a</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Have you seen this slide</p> <p>2 deck before?</p> <p>3 A. Yes, I believe I have.</p> <p>4 Q. In what context have you</p> <p>5 seen it before today?</p> <p>6 A. I -- I think I was at -- if</p> <p>7 it is what I think it is, he presented</p> <p>8 this I think in October of 2013 at Olive</p> <p>9 Branch.</p> <p>10 Q. Okay. So is that before or</p> <p>11 after he joined the company, do you know?</p> <p>12 A. I'm not sure if he had</p> <p>13 joined or not. But he had committed to</p> <p>14 joining the company.</p> <p>15 Q. Understood. Okay. I want</p> <p>16 to look at a couple aspects of this</p> <p>17 document with you. If you can turn to</p> <p>18 Page .18. The page -- point pages are at</p> <p>19 the top right, if that helps you.</p> <p>20 A. Okay.</p> <p>21 Q. And the title of this slide</p> <p>22 is Florida Pill Mills Resulting, and some</p> <p>23 quotes, "Oxy Spill."</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 65</p> <p>1 negative connotation to it, right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Looking at this slide</p> <p>4 here it says 2009 and 2010. The first</p> <p>5 bullet point says, "Average purchase of</p> <p>6 oxycodone products by a pharmacy, 63,294</p> <p>7 DU per year."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. What is DU, do you</p> <p>11 know what that stands for?</p> <p>12 A. Dosage units.</p> <p>13 Q. Okay. And then it says the</p> <p>14 next bullet point, "In Florida, the top</p> <p>15 100 pharmacies each purchased more than</p> <p>16 1,226,460 DU per year."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So as I would</p> <p>20 understand it and correct me if I'm</p> <p>21 wrong, what's being conveyed here is</p> <p>22 that, in Florida, the purchases of at</p> <p>23 least oxycodone in 2009 and 2010 were</p> <p>24 significantly higher in the state of</p>

<p style="text-align: right;">Page 66</p> <p>1 Florida than the country generally, 2 right? 3 MR. SCHMIDT: Objection. 4 Foundation. 5 THE WITNESS: I'm not sure 6 what the -- what the numbers would 7 be for another -- another state. 8 BY MR. BOGLE: 9 Q. Okay. When it says average 10 purchase of oxycodone products by a 11 pharmacy, what geographic region do you 12 think that pertains to? 13 A. I guess I attribute it to 14 being Florida. But I'm not sure if 15 that's accurate anymore. 16 Q. Okay. The next bullet that 17 we just read talks specifically about 18 Florida, right, the 1.226,460 dosage 19 units? 20 A. Okay. Right. 21 Q. Right? 22 So you understand that 23 that's generally a comparison of Florida 24 to the average as a whole of the country.</p>	<p style="text-align: right;">Page 68</p> <p>1 McKesson actually created a separate base 2 code at a point in time for oxy 3 30 milligrams specifically to track the 4 purchases of that dosage because of that 5 concern, right? 6 A. Yes. 7 Q. That the -- the higher rate 8 of abuse, right? 9 A. Yes. Mm-hmm. 10 Q. And so this reference here 11 to 44 percent of all oxycodone being 12 distributed to Florida specifically, you 13 would agree that's a high percentage of 14 the national volume of oxycodone 15 30 milligrams being distributed 16 specifically to Florida, right? 17 A. Yes. 18 Q. If you go to the next page, 19 .19. 20 A. Mm-hmm. 21 Q. It says, "Oxycodone deaths 22 in Florida rose from 340 in 2005 to 1,516 23 in 2010, a 346 percent increase." 24 Do you see that reference?</p>
<p style="text-align: right;">Page 67</p> <p>1 Do you see that? 2 A. Okay. Yep. 3 Q. Okay. And then below that 4 it says, "44 percent of all oxycodone 5 30-milligram products were distributed to 6 Florida in each year." 7 Do you see that? 8 A. Mm-hmm. 9 Q. Okay. Is that a yes? 10 A. Yes. 11 Q. And the oxycodone 12 30 milligrams, those are one of the most 13 highly abused and diverted forms of 14 opioids on the market, right? 15 A. Okay. 16 Q. No, I'm asking whether you 17 agree or disagree with that. 18 A. It's among them. 19 Q. Okay. 20 A. I -- I know that OxyContin 21 and Percocet. But oxycodone 30-milligram 22 is, I think, the highest generic strength 23 available. 24 Q. Right. And you guys at</p>	<p style="text-align: right;">Page 69</p> <p>1 A. Yes. 2 Q. And you've seen that 3 reference before today, right? 4 A. I believe so. 5 Q. Okay. As part of 6 reviewing -- seeing this deck, right? 7 A. Right. 8 Q. And you would agree with me, 9 that's a -- that's a very large increase 10 over that period of time, right? 11 A. Yes. 12 Q. And if we can go next to 13 Page .37. 14 This -- this slide is titled 15 Distributors Have Great Power. Do you 16 see that? 17 A. Mm-hmm. 18 Q. And it says, "individually 19 and collectively." And it references 20 your DEA registration. Next bullet point 21 says, "Ensure timely distribution to 22 prevent an uninterrupted supply." And 23 the third bullet point, "You control the 24 supply to downstream customers."</p>

<p style="text-align: right;">Page 70</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Would you agree that</p> <p>4 distributors like McKesson have great</p> <p>5 power over the distribution of controlled</p> <p>6 substances because, in fact, they do</p> <p>7 control the supply to downstream</p> <p>8 customers?</p> <p>9 MR. SCHMIDT: Objection.</p> <p>10 Vague.</p> <p>11 THE WITNESS: The customer</p> <p>12 doesn't push the product. It's</p> <p>13 pulled by the scripts and pharmacy</p> <p>14 orders.</p> <p>15 BY MR. BOGLE:</p> <p>16 Q. Understood. But McKesson</p> <p>17 ultimately has the decisionmaking power</p> <p>18 and the responsibility to decide who to</p> <p>19 sell those controlled substances to,</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. There's no legal obligation</p> <p>23 that you fill every single order that you</p> <p>24 get, right?</p>	<p style="text-align: right;">Page 72</p> <p>1 medium chain.</p> <p>2 Q. Okay.</p> <p>3 A. So it's a segment of the</p> <p>4 retail marketplace.</p> <p>5 Q. Okay. It's a type of</p> <p>6 pharmacy customer; is that fair?</p> <p>7 A. Yeah.</p> <p>8 Q. Did you -- were you the one</p> <p>9 that put together this slide deck?</p> <p>10 A. I may have been. I'd have</p> <p>11 to take a look at it.</p> <p>12 Q. Yeah, take just a minute.</p> <p>13 That -- that's my only question so far,</p> <p>14 is whether you think you are the one that</p> <p>15 drafted this.</p> <p>16 A. I don't -- I don't believe</p> <p>17 that I was the author, no.</p> <p>18 Q. Okay. But as director of</p> <p>19 regulatory affairs covering Lakeland</p> <p>20 during this time period, I think you said</p> <p>21 you probably would have seen this before,</p> <p>22 right?</p> <p>23 A. I believe so. Mm-hmm.</p> <p>24 Q. Okay. Do you know who did</p>
<p style="text-align: right;">Page 71</p> <p>1 A. Correct.</p> <p>2 (Document marked for</p> <p>3 identification as Exhibit</p> <p>4 MCK-Mahoney-4.)</p> <p>5 BY MR. BOGLE:</p> <p>6 Q. I'm going to hand you next</p> <p>7 what I'm marking as Exhibit 1.1968, also</p> <p>8 marked as Exhibit 4 to your deposition.</p> <p>9 And the start date here is</p> <p>10 MCK_MDL_00651331.</p> <p>11 Okay. So what I've given</p> <p>12 you here is Exhibit 4. The title is</p> <p>13 McKesson's Regulatory Program, Lakeland</p> <p>14 ISMC Meeting, August 2014. Do you see</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. Are you familiar with this</p> <p>18 PowerPoint deck?</p> <p>19 A. I believe so.</p> <p>20 Q. Okay. And before we get</p> <p>21 into it, I have a few questions about it,</p> <p>22 but before we get there, ISMC, what does</p> <p>23 that stand for at McKesson?</p> <p>24 A. Independent and small and</p>	<p style="text-align: right;">Page 73</p> <p>1 draft it?</p> <p>2 A. I don't, actually.</p> <p>3 Q. Okay. That's fair. All</p> <p>4 right. Let's go to Page .12.</p> <p>5 This slide is titled</p> <p>6 Legislative Actions Can Impact Us and Our</p> <p>7 Customers.</p> <p>8 And below that it says,</p> <p>9 "State of Florida."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And then -- and I'm</p> <p>13 not going to go through every bullet</p> <p>14 point here. But what generally is</p> <p>15 discussed on this slide is legislative</p> <p>16 changes in the state of Florida that</p> <p>17 impacted the ability of pain clinics to</p> <p>18 distribute controlled substances, right?</p> <p>19 A. To dispense them, yeah.</p> <p>20 Q. Right. And this was done as</p> <p>21 discussed in this slide starting in 2010,</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you are familiar</p>

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1 with those legislative changes, right?

2 A. Yes.

3 Q. Okay. And going back to the

4 title of the slide, it says, "Legislative

5 actions can impact us and our customers."

6 In fact, many of these pain

7 clinics prior to 2010 were McKesson's

8 customers, right?

9 MR. SCHMIDT: Objection.

10 Foundation.

11 THE WITNESS: You are

12 talking about doctors who were

13 dispensing?

14 BY MR. BOGLE:

15 Q. Correct.

16 A. I'm not sure. I'm not aware

17 of that.

18 Q. Okay. Do you know whether

19 prior to 2010 McKesson supplied

20 controlled substances to any pain clinics

21 in the state of Florida?

22 A. My understanding is that a

23 division of McKesson, medical-surgical,

24 had -- their -- their customers at that

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1 time included both hospitals and doctors.

2 And there were some doctors to whom they

3 were selling some controls.

4 Q. And another component of it

5 would be that prior to 2010, even after

6 2010, McKesson would sell controlled

7 substances to pharmacies that the pain

8 clinics would buy, the pain clinics would

9 buy from the pharmacies, right, as well?

10 A. I'm not aware of it.

11 Q. Not aware of that? Okay.

12 A. You're saying that we would

13 sell to a pharmacy and then they would

14 distribute it to a doctor?

15 Q. Sell to the pain clinics,

16 right, so the pain clinic could dispense

17 to their patients?

18 A. I'm not aware of that.

19 Q. So specific to Florida,

20 prior to 2010, what was your

21 understanding of where these pain clinics

22 were getting the drugs from to distribute

23 them -- dispense them? I'm sorry,

24 dispense.

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1 A. From wholesalers,

2 manufacturers.

3 Q. Okay. But not from

4 McKesson, just from the manufacturers?

5 I'm trying to make sure we're speaking

6 the same language here.

7 A. Well, with the

8 implementation of the pedigree law, there

9 were strong limitations that were put on

10 pharmacies how they could distribute --

11 distribute drugs, both Rx and controls.

12 They were limited by the DEA to 5 percent

13 of the overall volume. But they had to

14 have a specific special license in order

15 to distribute at all. And many of the

16 people who initially said, yeah, for 100

17 bucks I'll become a distributor, once

18 they recognized how onerous the

19 requirements were, they basically handed

20 it back to the State of Florida and said

21 we don't want to be in that business.

22 So I don't believe that our

23 customers, our pharmacy customers were

24 distributing controls to doctors and pain

Page 77

1 clinics.

2 Q. Okay. What about McKesson,

3 distributing directly to the pain clinics

4 that were dispensing? In Florida, let's

5 talk about Florida, because I'm not

6 trying to get outside of your region

7 here --

8 A. Right.

9 Q. -- prior to 2010.

10 MR. SCHMIDT: Let me just

11 say, I think there was an issue in

12 one of the earlier depositions

13 about geographic focus

14 restriction. We're, I think, well

15 outside of it with Florida. I'd

16 ask you to kind of focus on what's

17 at issue geographically. And if

18 not, we'll obviously preserve our

19 objection and maybe seek relief on

20 that basis.

21 MR. BOGLE: Yeah, I mean,

22 you're certainly entitled to

23 object, but there's no geographic

24 restrictions as to what I can ask.

<p style="text-align: right;">Page 78</p> <p>1 I'm aware of nothing of the sort.</p> <p>2 MR. SCHMIDT: I don't think</p> <p>3 we understand that in that way in</p> <p>4 terms of the judge ordering -- the</p> <p>5 special master ordering that</p> <p>6 discovery should be focused on the</p> <p>7 jurisdictions that would be</p> <p>8 subject to the first trial.</p> <p>9 BY MR. BOGLE:</p> <p>10 Q. My question stands. Do you</p> <p>11 recall my question?</p> <p>12 A. Can you repeat it, please?</p> <p>13 Q. Yeah. So prior to 2010 in</p> <p>14 the State of Florida, was it your</p> <p>15 understanding that McKesson was not</p> <p>16 distributing to pain clinics that were</p> <p>17 then dispensing the controlled</p> <p>18 substances?</p> <p>19 A. Medical Surgical had some</p> <p>20 customers who were receiving controls for</p> <p>21 whom McKesson-Lakeland was actually doing</p> <p>22 the pick, pack and ship for.</p> <p>23 Q. Okay. And if we go to the</p> <p>24 next page, .13. Do you see the title</p>	<p style="text-align: right;">Page 80</p> <p>1 you're going to have specifically at</p> <p>2 McKesson for the State of Florida, more</p> <p>3 pharmacies that you've got to monitor and</p> <p>4 operate due diligence for, right?</p> <p>5 MR. SCHMIDT: Objection.</p> <p>6 Foundation.</p> <p>7 THE WITNESS: I believe so.</p> <p>8 BY MR. BOGLE:</p> <p>9 Q. Okay. And in fact that</p> <p>10 happened, right? There became more</p> <p>11 pharmacies that the Lakeland distribution</p> <p>12 center sold controlled substances to in</p> <p>13 the State of Florida, because of this</p> <p>14 increase in new pharmacies in 2010,</p> <p>15 right?</p> <p>16 A. I'm not aware of the</p> <p>17 specific numbers, but I imagine that was</p> <p>18 the trend.</p> <p>19 Q. Okay. And Florida</p> <p>20 specifically, is it your understanding,</p> <p>21 has historically had one of the highest</p> <p>22 rates of diversion of opioids in the</p> <p>23 country?</p> <p>24 A. Let me see. Historically?</p>
<p style="text-align: right;">Page 79</p> <p>1 slide is titled "Reaction." And it</p> <p>2 says -- the first bullet point says,</p> <p>3 "Shift from dispensing physicians to</p> <p>4 prescribing physicians."</p> <p>5 Second bullet point says,</p> <p>6 "Pill mill problem became a retail</p> <p>7 pharmacy problem."</p> <p>8 What do you understand that</p> <p>9 second bullet point to mean?</p> <p>10 A. I think what it's saying is</p> <p>11 because of the change in the law, which</p> <p>12 basically prevented doctors from</p> <p>13 dispensing controls, they started writing</p> <p>14 scripts that were filled by pharmacies.</p> <p>15 Q. All right. And as the next</p> <p>16 bullet point notes, because of that in</p> <p>17 the state of Florida, new pharmacy</p> <p>18 applications increased dramatically</p> <p>19 following the implementation of that law</p> <p>20 in 2010, right?</p> <p>21 A. Yes.</p> <p>22 Q. And so when there's an</p> <p>23 increase dramatically in pharmacies in</p> <p>24 the State of Florida, that means that</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. Yeah. So, well let me ask</p> <p>2 you. Here, we'll just look at the</p> <p>3 document. We'll cut to it.</p> <p>4 (Document marked for</p> <p>5 identification as Exhibit</p> <p>6 MCK-Mahoney-5.)</p> <p>7 BY MR. BOGLE:</p> <p>8 Q. I'll hand you what's marked</p> <p>9 as Exhibit 1.1434, also marked as</p> <p>10 Exhibit 5, and start with Bates</p> <p>11 MCKMDL00403517.</p> <p>12 That's as far as I can get</p> <p>13 it.</p> <p>14 Okay. We'll start with the</p> <p>15 e-mail just to introduce the document.</p> <p>16 It's an e-mail from Krista Peck, June 10,</p> <p>17 2014.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. On the first page?</p> <p>21 And there are many</p> <p>22 recipients. I'm not going to go through</p> <p>23 all of them. But you see the second name</p> <p>24 listed is yours, right?</p>

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1 A. Yes.
2 Q. Okay. And it says -- first
3 line says, "Attached is the regulatory
4 presentation to the DC ops team at
5 national sales conference in May."
6 Do you see that?
7 A. Yes.
8 Q. Okay. This is a conference
9 that you would have attended, correct?
10 A. I don't believe I was there.
11 Q. But you were certainly
12 provided with the deck, at least
13 afterwards, right, based on this e-mail?
14 A. Yes.
15 Q. Okay. If you look here on
16 page -- I believe it's .13. The slide is
17 titled "Current Rx Drug Diversion
18 Trends."
19 Do you see that?
20 A. Okay.
21 Q. Do you see where I'm at?
22 A. Yes, I do.
23 Q. Okay. And for oxycodone,
24 for example, in this chart, Florida is

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1 ranked number one for current Rx drug
2 diversion trends as of the data in 2013
3 based on the source?
4 A. I think it actually says
5 highest dispensing, not diversion.
6 Q. Okay. The slide is titled
7 "Current Rx Drug Diversion Trends,"
8 right?
9 A. That may be a misnomer.
10 Q. Okay. But we'll start with
11 that. That's what the slide says, right?
12 A. Yeah.
13 Q. Okay. And Florida is ranked
14 number one on this list per the data from
15 the DEA in 2013, right?
16 A. Yes.
17 Q. And for hydrocodone, Florida
18 is number five, right?
19 A. Yes.
20 Q. For hydromorphone, Florida
21 is number two, right?
22 A. Yes.
23 Q. And for oxymorphone, Florida
24 is number six, correct?

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1 A. Yes.
2 Q. Those are all opioid
3 products, right?
4 A. Yes.
5 Q. Okay. This is a chart that
6 you've seen prior to today?
7 A. Yes. I mean -- okay.
8 Q. Are you familiar with the
9 concept known as migration when it comes
10 to controlled substances?
11 MR. SCHMIDT: Objection.
12 Vague.
13 THE WITNESS: I have -- I'm
14 not sure.
15 BY MR. BOGLE:
16 Q. Okay. Not sure if you ever
17 heard that term used in the context of
18 controlled substances?
19 A. I may have heard about it in
20 various modes or forms.
21 Q. Okay. Do you have any sense
22 of what that means, again focused on
23 controlled substances?
24 A. I think that one of the

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1 things, for example, that was seen was
2 that as the states were doing their part
3 to fight the system, they were making
4 more tools available to doctors and
5 pharmacists that they could track what
6 their patients were doing.
7 So state by state, they were
8 implementing prescription monitoring
9 programs. And some states were early to
10 embrace them, and some were later.
11 And I think that one of the
12 things that was observed was that that
13 was a strong tool that caused abuse to
14 move to states that did not have those
15 kinds of systems.
16 So as they were
17 implemented -- and I don't know when the
18 first one was implemented. But they may
19 have moved from states where they were
20 implemented. Maybe Kentucky and Ohio
21 were among the early ones. And abuse
22 moved to states where there were less --
23 less strong monitoring programs.
24 Q. Okay. Have you heard of the

<p style="text-align: right;">Page 86</p> <p>1 concept of migration used in the sense of 2 when controlled substances or even 3 illegal -- applies equally to illegal 4 drugs -- are supplied to a market, 5 oversupplied to a market, when that 6 market is oversupplied, the excess will 7 tend to migrate somewhere else? 8 MR. SCHMIDT: Objection. 9 Vague. 10 BY MR. BOGLE: 11 Q. Are you familiar with that 12 kind of concept, migration? 13 A. I can understand -- 14 MR. SCHMIDT: Same 15 objection. 16 Go ahead. 17 THE WITNESS: I understand 18 what you're saying. 19 BY MR. BOGLE: 20 Q. Okay. Does that make sense 21 to you? 22 MR. SCHMIDT: Same 23 objection. Vague. 24 THE WITNESS: It sounds like</p>	<p style="text-align: right;">Page 88</p> <p>1 A. I'm not sure. 2 Q. Okay. Let me take a look 3 at -- there's one slide that I want to 4 look at here, and you can tell me whether 5 you're familiar with this slide. Let's 6 go to .15. 7 A. Okay. 8 Q. And you see here, there's -- 9 the slide is titled "Drug Diversion, 10 Migration Out of Florida." And then 11 there's a map of the United States below 12 it. 13 Do you see that? 14 A. Okay. Yeah, mm-hmm. 15 Q. You've seen this slide 16 before? 17 A. Yeah, I've seen this before. 18 It may have had another title. But -- 19 Q. Okay. And you see here 20 what's depicted as the migration of 21 controlled substances out of Florida, 22 specifically in this depiction going up 23 through Georgia, Kentucky, Ohio and then 24 Missouri.</p>
<p style="text-align: right;">Page 87</p> <p>1 it makes sense. 2 BY MR. BOGLE: 3 Q. Okay. And specifically 4 talking about the State of Florida, there 5 has been significant migration of drug 6 diversion out of the State of Florida up 7 to the east coast and the Midwest, right? 8 A. I'm not sure. 9 (Document marked for 10 identification as Exhibit 11 MCK-Mahoney-6.) 12 BY MR. BOGLE: 13 Q. I'm going to hand you what 14 I'm marking as Exhibit 1.1355, also 15 marked as Exhibit 6. And it's Bates 16 Number MCKMDL00407451. 17 And, Mr. Mahoney, you see 18 this slide deck is titled "Prescription 19 Drug Abuse, the National Perspective." 20 And there's a date at the bottom of 2014. 21 Do you see that? 22 A. Yes. 23 Q. Okay. Are you familiar with 24 this slide deck?</p>	<p style="text-align: right;">Page 89</p> <p>1 Do you see that? 2 A. Okay. 3 Q. Do you see where I'm 4 referencing here? 5 A. Yes, the little arrow train. 6 Q. And this concept of 7 migration specifically out of the state 8 of Florida, of controlled substances into 9 the Midwest is something you've heard of 10 prior to today, right? 11 A. Yes. 12 Q. Okay. 13 A. And again, I think this is 14 related to the enactment of those 15 prescription monitoring programs. 16 I think Missouri may have 17 been one of the last ones to implement. 18 Q. Okay. 19 MR. BOGLE: This is a decent 20 breaking point if you don't mind. 21 Quick break, I'll reset my 22 documents. 23 MR. SCHMIDT: Okay. 24 THE VIDEOGRAPHER: Remove</p>

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1 your microphones. The time is
2 10:12 a.m. Going off the record.
3 (Short break.)
4 THE VIDEOGRAPHER: We are
5 back on the record. The time is
6 10:27 a.m.
7 BY MR. BOGLE:
8 Q. All right, Mr. Mahoney.
9 While you were distribution center
10 manager for Lakeland distribution center,
11 it was -- you had ultimate responsibility
12 for every pill that left the distribution
13 center, correct?
14 A. Yes.
15 Q. And beginning in late 2005,
16 the DEA specifically began questioning
17 the distribution practices of the
18 Lakeland distribution center when it came
19 to opioids, right?
20 A. Okay.
21 Q. Do you recall that?
22 A. Yes. The timing, a lot of
23 that information, I believe, was conveyed
24 via a meeting that I wasn't in, so...

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1 Q. Okay. But it would have
2 been conveyed to you thereafter because
3 it pertained to your distribution center,
4 right?
5 A. Yes, although I don't recall
6 it being immediately after. I think
7 there may have been some analysis and
8 that kind of thing that was done in the
9 interim.
10 Q. Okay. We'll take a look at
11 it. I've got documents for just about
12 all of it. So that may help.
13 A. Okay.
14 Q. Do you recall, before we get
15 into the documents, that the DEA's
16 concerns beginning in late 2005 as to the
17 Lakeland distribution center focused
18 largely to the distribution of
19 hydrocodone to internet pharmacies?
20 A. Yes.
21 Q. I'm going to hand you what
22 I'm marking as Exhibit 1.1946, also
23 marked as Exhibit 7 to your deposition.
24 (Document marked for

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1 identification as Exhibit
2 MCK-Mahoney-7.)
3 BY MR. BOGLE:
4 Q. And the start Bates number
5 is MCKMDL00496859.
6 You don't need to worry
7 about those numbers. They just tell me
8 that I have to read them off.
9 Okay. So Exhibit 7 to
10 introduce this, is a memorandum from the
11 DEA regarding an internet presentation
12 with McKesson Corp. on September 1, 2005.
13 Do you see that?
14 A. Yes.
15 Q. Okay. And there's a
16 discussion thereafter. But -- and I
17 believe this may be the meeting that you
18 were talking about that you weren't
19 present for.
20 A. Right.
21 Q. There's a listing of people
22 who were present. Your name is not on
23 that list here, right?
24 A. Right.

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1 Q. Okay. But thereafter, you
2 were made aware of the findings and
3 specifically what the DEA conveyed to the
4 people at McKesson who were there, right?
5 A. Yes.
6 Q. Okay. All right. Let's
7 take a look at this here. It says, the
8 end of the first paragraph, "The purpose
9 of the meeting was to address the illegal
10 domestic internet pharmacy problem and
11 their source of supplies."
12 And it says, "Mr. Mapes
13 opened the meeting by presenting to the
14 representatives of McKesson Corp. a
15 PowerPoint briefing which explained the
16 common characteristics of internet
17 pharmacies and why their activities are
18 illegal."
19 Do you see that?
20 A. Yes.
21 Q. And Mr. Mapes, that's
22 Michael Mapes at the DEA, right?
23 A. Yes.
24 Q. Okay. And there's bullet

<p style="text-align: right;">Page 94</p> <p>1 points below that. The next to the last 2 one says, "A review of the suspicious 3 order requirements, Title 21 Code of 4 Federal Regulations." 5 Do you see that? 6 A. Yes. 7 Q. Okay. So that was a part of 8 the PowerPoint briefing as described 9 here, right? 10 A. Apparently. 11 Q. Okay. And thereafter, the 12 next paragraph, it says, "After the 13 presentation, Mr. Mapes presented to the 14 representatives of McKesson Corp. 15 specific customers of McKesson Corp. who 16 have ordered substantial quantities of 17 hydrocodone products. These specific 18 customers of McKesson Corp. were" -- and 19 it lists United Prescription Services and 20 Ninth Avenue Pharmacy. 21 Do you see those two names? 22 A. Yes. 23 Q. And United Prescription 24 Services specifically was a customer of</p>	<p style="text-align: right;">Page 96</p> <p>1 headquarters. September 1, 2005." 2 And this PowerPoint slide 3 specifically is one that you've seen 4 before today, right, or this PowerPoint 5 deck, right? 6 A. I'm not sure that I have. 7 Q. Okay. This was not passed 8 on to you after this meeting? 9 A. I -- I don't recall. 10 Q. Okay. Let's take a look at 11 the next page. There's a slide there 12 that says, "Issues to consider." 13 Do you see that slide? 14 A. Yes. 15 Q. It says, "Frequency of 16 orders, size of orders, range of products 17 purchased." 18 Do you see those first three 19 bullet points? 20 A. Yes. 21 Q. Okay. And we're talking 22 about issues to consider. This is issues 23 to consider when trying to assess whether 24 an order is suspicious, right?</p>
<p style="text-align: right;">Page 95</p> <p>1 Lakeland at that time, right? 2 A. Yes. 3 Q. Okay. And it says, 4 "Mr. Mapes finalized the presentation by 5 advising the representatives of McKesson 6 Corp. that they needed to thoroughly 7 review the materials which had been 8 presented to them and review in depth the 9 purchasing patterns and quantities of 10 their customers. Representatives of 11 McKesson Corp. acknowledged understanding 12 of the material presented." 13 Do you see that reference? 14 A. Yes. 15 Q. Okay. And then if you go 16 into the third page of this document, 17 there is actually the PowerPoint 18 presentation here which I believe is 19 referred to on the first page. 20 Do you see that? 21 A. Okay. Mm-hmm. 22 Q. It says there, the first 23 slide, "Internet pharmacy data. Meeting 24 with McKesson Corporation, DEA</p>	<p style="text-align: right;">Page 97</p> <p>1 A. Right. 2 Q. Okay. And then the 3 next-to-last bullet point says, 4 "Percentage controlled versus percentage 5 non-controlled." 6 Do you see that reference? 7 A. Yes. 8 Q. And that's talking about, 9 again, when you're doing suspicious order 10 monitoring, assessing the percentage of 11 controlled substances a customer is 12 purchasing versus the percentage of 13 non-controlled substances that same 14 customer is purchasing, right? 15 A. Yeah. I guess in -- an 16 order would have multiple lines. Okay. 17 And I guess they say that each or -- each 18 line is an order. But yes, there are 19 multiple -- multiple lines with each 20 order typically. 21 Q. Right. And specifically, 22 though, when you're assessing the 23 percentage of controlled substance 24 purchases versus the percentage of</p>

<p style="text-align: right;">Page 98</p> <p>1 non-controlled, that's a way to assess 2 whether the percentage of controlled 3 substances is suspicious because it's 4 very high compared to the percentage of 5 non controlled for a customer, right? 6 A. Yes. 7 Q. Okay. And that's one -- one 8 component of suspicious order monitoring 9 that can be done, right? 10 A. Yes. 11 Q. Okay. And in fact, 12 that's -- there's a report called the -- 13 at one point in time that was called the 14 Volakos report at McKesson that produced 15 exactly that kind of data, right? 16 A. Yes. 17 Q. Okay. So when we're talking 18 about, at this point in time in late 19 2005, McKesson did have the ability, and 20 specifically at your distribution center, 21 to assess the percentage of controlled 22 substances versus non-controlled 23 substances being purchased by a McKesson 24 customer, right?</p>	<p style="text-align: right;">Page 100</p> <p>1 to how much a customer had purchased from 2 McKesson, controls and non-controls, that 3 data existed within the company, right, 4 at that point in time? 5 A. Yeah. We had records on 6 customer purchases. 7 Q. Right. Right. And so 8 that's something that -- I understand the 9 report that you were given, dollarized it 10 rather than listing how many specific 11 purchases were made. But the actual 12 purchase information as to how many 13 purchases were made, was information that 14 was kept within the company, right, you 15 keep track of the sales? 16 A. Yes. 17 Q. And what's bought. Okay. 18 A. And -- excuse me? The 19 last -- 20 Q. And what was bought. 21 A. Yes. 22 Q. Okay. And so in 2005 then 23 in the September 2005 time frame, I think 24 you said it was dollarized, meaning you</p>
<p style="text-align: right;">Page 99</p> <p>1 A. The percentage reports that 2 I had available to me in 2005 that were 3 controls to Rx were on a dollarized 4 basis. 5 Q. Okay. 6 A. So they didn't really 7 consider effectively whether something 8 was generic or brand. 9 Q. Okay. And that's certainly 10 a deficiency when it comes to being able 11 to monitor the controlled substances 12 versus non-controlled to detect whether 13 an order is potentially suspicious, 14 right? 15 MR. SCHMIDT: Object to 16 characterization. 17 THE WITNESS: That was the 18 method that we used when we were 19 discussing controls to Rx. 20 BY MR. BOGLE: 21 Q. I understand that's the way 22 you're saying the report existed at that 23 point in time. But let me ask sort of 24 two questions. First of all, the data as</p>	<p style="text-align: right;">Page 101</p> <p>1 can tell how much the customer spent on 2 controls versus noncontrols, but not how 3 many specific items they purchased, 4 that's not -- that wasn't given to you in 5 the report, right? 6 MR. SCHMIDT: Objection. 7 Characterization. 8 THE WITNESS: Correct. 9 BY MR. BOGLE: 10 Q. Okay. Now, you would agree 11 with me that actually knowing a quantity 12 of how much was purchased, controls 13 versus noncontrols, is an easier way to 14 assess whether an order for controlled 15 substances is suspicious than looking 16 just at the dollar values, right? 17 A. You know, I wish we had that 18 kind of information back then. But the 19 way we had it to look at was either 20 dollarized or take a look at the -- the 21 listing of the orders that were put out 22 there. 23 Q. So -- so my question simply 24 though was, because I think now, now you</p>

<p style="text-align: right;">Page 102</p> <p>1 can specifically look at the quantity of 2 item purchased, right? 3 A. Yes. 4 Q. Not just the dollarized? 5 A. Yeah. 6 Q. And you would agree with me 7 that that system is a better system as 8 far as detecting suspicious orders than 9 just looking at the dollar values, right? 10 A. A lot of things we do today 11 is better than what we used to. 12 Q. Okay. That would be one, 13 right? 14 A. Yes. 15 Q. Okay. And -- but going back 16 to what we talked about before though, 17 the specific amount of items, quantity of 18 items purchased, controls versus 19 noncontrols, that information existed in 20 McKesson's files in 2005, right? 21 A. Yes. 22 Q. And specifically when you're 23 looking at dollar values of purchases, 24 even in 2005, there was a component of</p>	<p style="text-align: right;">Page 104</p> <p>1 there, it's titled Suspicious Orders. Do 2 you see that? 3 A. Yes. 4 Q. And the second bullet point 5 says, "Requires that registrants design 6 and operate system to identify suspicious 7 orders." 8 And that's similar to what 9 we saw in the letter from Mr. Rannazzisi 10 at the beginning of the deposition, 11 right? 12 A. Yes. We -- we were 13 supporting suspicious orders via a method 14 that -- that DU-45, which had been done 15 in conjunction with the DEA task force. 16 Q. Yeah, I guess my question 17 was, this -- this bullet point reference 18 here is similar to what we saw in the 19 2006 letter from the DEA as far as 20 suspicious order monitoring, a component 21 of that was -- 22 A. Yes. 23 Q. -- a requirement to design 24 and operate a system to identify</p>
<p style="text-align: right;">Page 103</p> <p>1 opioid products that were generic, right? 2 A. Yes. 3 Q. And generic products 4 generally are cheaper, right? 5 A. Yes. 6 Q. And so if you're looking 7 just at the dollar values when a fair 8 component of the purchases for controlled 9 substances may be generic, you may get a 10 lower dollar value even though the 11 quantity is higher, right? 12 A. Yes. Yes. 13 Q. In '05, hydrocodone for 14 example, some of the formulations of that 15 were generic, right? 16 A. Yes. 17 Q. Same is true for oxycodone, 18 right? 19 A. Yes. I think. 20 Q. Going back to the slide deck 21 here. I'm on Page .9. 22 There's a slide -- oh, I'm 23 sorry. 24 There's a second slide</p>	<p style="text-align: right;">Page 105</p> <p>1 suspicious orders, right? 2 A. Yes. 3 Q. Okay. And the next bullet 4 point says, "Report suspicious orders to 5 DEA when discovered," right? 6 Do you see that reference? 7 A. Mm-hmm, mm-hmm. 8 Q. And again, in 2005, you knew 9 that was part of the regulatory 10 responsibility, right? 11 A. Yes. 12 Q. The next page, it continues, 13 another slide on suspicious orders. It 14 says, "Reporting a suspicious order to 15 DEA does not relieve the distributor of 16 the responsibility to maintain effective 17 controls against diversion." 18 Do you see that? 19 A. Yes. 20 Q. What do you understand that 21 to mean? 22 A. So -- 23 MR. SCHMIDT: Objection. 24 Just a second. Sorry.</p>

<p style="text-align: right;">Page 106</p> <p>1 Objection. Foundation. 2 THE WITNESS: So it says 3 that if -- if you report a 4 suspicious order, you're still 5 responsible to maintain effective 6 controls against diversion. 7 BY MR. BOGLE: 8 Q. Right. And what that really 9 means is, it's not enough just to report, 10 you've also got to try to stop the 11 diversion by not giving them the product 12 if you think the order is suspicious, 13 right? 14 A. Right. 15 MR. SCHMIDT: Objection. 16 Foundation. 17 BY MR. BOGLE: 18 Q. And finally if we can go to 19 Page .15. First slide is titled Summary. 20 And it says, "A pattern of drugs being 21 distributed to pharmacies who are 22 diverting controlled substances 23 demonstrates the lack of effective 24 controls against diversion by the</p>	<p style="text-align: right;">Page 108</p> <p>1 THE WITNESS: Okay. Sorry. 2 MR. SCHMIDT: That's okay. 3 BY MR. BOGLE: 4 Q. And after this presentation, 5 those concerns would have been conveyed 6 to you as a distribution center manager, 7 right? 8 A. I believe they would have. 9 Q. Okay. 10 A. I'm not sure exactly when 11 they were. 12 Q. Okay. Do you have any 13 reason to think there was some 14 substantial delay after this meeting 15 before you received word that DEA has 16 come and talked to us and they are 17 concerned about diversion of controlled 18 substances? 19 MR. SCHMIDT: Object to the 20 characterization. 21 THE WITNESS: My 22 recollection in the wake of this 23 was that there had been a meeting, 24 and I believe that it would have</p>
<p style="text-align: right;">Page 107</p> <p>1 distributor." 2 And then it says, "The DEA 3 registration of the distributor could be 4 revoked under public interest grounds." 5 Did I read those correctly? 6 A. Yes. 7 Q. Okay. And in the next slide 8 continues and says, "Any distributor who 9 is selling controlled substances that are 10 being dispensed outside the course of 11 professional practice must stop 12 immediately." 13 Do you see that reference? 14 A. Yes. 15 Q. Okay. So in this slide, you 16 would agree with me the DEA is conveying 17 some serious concerns about the potential 18 for diversion of controlled substances to 19 McKesson, right? 20 A. Yes. 21 MR. SCHMIDT: Object to the 22 characterization. You've got to 23 give me just a second to lodge an 24 objection.</p>	<p style="text-align: right;">Page 109</p> <p>1 been Gary Hilliard who I think had 2 been one of the attendants -- 3 attendees. 4 BY MR. BOGLE: 5 Q. Do you want to look on the 6 first page, the attendees are there? 7 A. Yes. Gary Hilliard. 8 Q. Okay. 9 A. And I knew Gary. He was the 10 director of regulatory affairs. And he 11 didn't -- he didn't express it like that. 12 Rather, he was asking me some questions. 13 Q. What questions did he ask 14 you? 15 A. I don't recall exactly what 16 they were. But they were -- they were 17 not -- they were not directly -- they -- 18 they weren't direct, or specific. He was 19 asking questions about what we were 20 seeing. 21 Q. Okay. So after this 22 presentation in September, did 23 Mr. Hilliard talk to you specifically 24 about United Prescription Services, which</p>

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1 is one of the pharmacies we talked about?
2 A. I don't recall having a
3 specific conversation about United with
4 Gary.
5 Q. Okay. So you said he asked
6 you some specific questions. I
7 understand it's more than ten years ago,
8 and you don't understand the specific
9 questions he asked.
10 But are you saying that he
11 did not convey to you at that point in
12 time that the DEA came to us and had
13 serious concerns about diversion of
14 controlled substances?
15 A. I think -- I think the way
16 it was expressed to me was that the DEA
17 had meetings with McKesson and other
18 distributors. And that there were some
19 issues that were raised to them.
20 Q. Okay. But you don't recall
21 them telling you, Mr. Hilliard or anybody
22 else telling you specifically what those
23 issues were, is that fair?
24 A. Not -- not immediately after

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1 the --
2 Q. When you say not immediately
3 after, do you recall a specific point in
4 time that you were made aware of these
5 concerns?
6 A. I remember speaking with --
7 with Gary and -- and Don Walker I
8 believe, in October, November, December,
9 about what we were seeing and what we
10 were going to do with regard to it.
11 Q. Okay. October, November,
12 December of 2005?
13 A. Yeah.
14 Q. Okay. All right. So -- but
15 we can agree in looking at this
16 PowerPoint deck that the DEA is pretty
17 clearly conveying that distributors like
18 McKesson need to have a heightened watch
19 for potential diversion of controlled
20 substances, right?
21 A. Yes.
22 MR. SCHMIDT: Object to the
23 characterization.
24 BY MR. BOGLE:

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1 Q. And pretty quickly after
2 this meeting in September 2005, there
3 were some additional concerns expressed
4 by the DEA about continued distribution
5 of controlled substances out of Lakeland
6 that they felt were indicative of
7 diversion, right?
8 MR. SCHMIDT: Objection.
9 Characterization.
10 THE WITNESS: I'm not sure
11 exactly when or how you're talking
12 about.
13 BY MR. BOGLE:
14 Q. Okay. I'm going to hand you
15 what I'm marking as 1.1789. Also marked
16 as Exhibit 8.
17 Start Bates Number is
18 MCK_MDL_00496876.
19 (Document marked for
20 identification as Exhibit
21 MCK-Mahoney-8.)
22 BY MR. BOGLE:
23 Q. Okay. And you see this is
24 another memorandum from Michael Mapes at

Page 113

1 the DEA. This time referencing a meeting
2 between Office of Diversion Control and
3 McKesson Corp. on January 3, 2006.
4 Do you see that?
5 A. Yes.
6 Q. Okay. And in the second
7 paragraph of the letter you see that you
8 were one of the people present at this
9 meeting, right?
10 A. Yes.
11 Q. Okay. Do you recall this
12 meeting?
13 A. Yes.
14 Q. Okay. And going down
15 further on this page, do you see where it
16 says Mr. Mapes opened the meeting? That
17 reference.
18 A. Yes.
19 Q. Three-quarters -- "Mr. Mapes
20 opened the meeting by making
21 introductions and covering the background
22 of previous meetings and telephonic
23 conversations between OD and McKesson
24 Corp. Specifically addressed were the

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1 following."

2 And the first bullet point

3 says, "A meeting between McKesson Corp.

4 and E-commerce section was held

5 September 1, 2005, at which time McKesson

6 Corp. was given a full detailed briefing

7 of the OD's distributors initiative to

8 address the internet pharmacy problem."

9 Do you see that?

10 A. Yes.

11 Q. And that's referencing the

12 meeting we just reviewed a moment ago,

13 right?

14 A. I understand.

15 Q. Okay. And then the next to

16 last bullet point on that page says,

17 "Pharmacies of particular concern were

18 located in Florida, Texas and Colorado."

19 Do you see that?

20 A. Yes.

21 Q. And then the next bullet

22 point said -- and this is referring back

23 to that September 1, 2005 meeting, right?

24 A. Okay.

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1 Q. Do you see that? These

2 bullet points are all below that, that

3 reference?

4 A. I thought it refers to the

5 January 3rd meeting.

6 Q. Okay. Let's go back then.

7 Where I started it says,

8 "Mr. Mapes opened the meeting by making

9 introductions and covering the background

10 of previous meetings" --

11 A. Right.

12 Q. -- "and telephonic

13 conversations between OD and McKesson

14 Corp. Specifically addressed were the

15 following:"

16 And then all of these bullet

17 points are below that.

18 Do you see that?

19 A. Yes.

20 Q. Okay. So this -- that would

21 indicate to you that he's talking about

22 meetings prior to this January 3rd of '06

23 meeting, right?

24 MR. SCHMIDT: Object to the

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1 characterization.

2 THE WITNESS: So he's

3 talking about the September

4 meeting in the first bullet,

5 right?

6 BY MR. BOGLE:

7 Q. Correct.

8 A. And then there are other

9 things that are discussed in this

10 meeting.

11 Q. Right. But I'm talking

12 about just these bullet points on this

13 page right here. These are all bullet

14 points giving a background of previous

15 meetings prior to the one in January 3 of

16 '06.

17 You see that, right?

18 MR. SCHMIDT: Same

19 objection.

20 THE WITNESS: Okay.

21 BY MR. BOGLE:

22 Q. Do you have any reason to

23 disagree with that?

24 MR. SCHMIDT: Same

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1 objection.

2 THE WITNESS: So you're

3 saying that the first -- the first

4 bullet refers to the September

5 meeting. And then the next four

6 all refer to that?

7 BY MR. BOGLE:

8 Q. That's my reading of this

9 document. I'm asking you if you have any

10 reason to think that reading is wrong.

11 MR. SCHMIDT: Objection.

12 Foundation.

13 THE WITNESS: No.

14 BY MR. BOGLE:

15 Q. Okay. And so looking back

16 to the next-to-last bullet point on the

17 first page. It says, "Pharmacies of

18 particular concern were located in

19 Florida, Texas, and Colorado."

20 Then it says, the bullet

21 point below that, "Specifically addressed

22 concerns with United Prescription

23 Services, a current customer of

24 McKesson."

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<p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And we know from looking at</p> <p>4 the prior memo from the September meeting</p> <p>5 there were concerns specifically</p> <p>6 addressed in that meeting about United</p> <p>7 Prescription Services, right?</p> <p>8 A. Yes.</p> <p>9 Q. We can pull it back up if</p> <p>10 you need to.</p> <p>11 A. No, I understand.</p> <p>12 Q. Okay. So then if you go --</p> <p>13 we're on Page 2 now. Here he's outlining</p> <p>14 things that happened after that meeting.</p> <p>15 He says in the next bullet point, "On</p> <p>16 October 6, 2005, Mr. Mapes called</p> <p>17 Mr. Gilbert to discuss comments the</p> <p>18 E-commerce section had received that</p> <p>19 McKesson Corp. was not taking the</p> <p>20 internet pharmacy problem seriously.</p> <p>21 Mr. Mapes was assured by Mr. Gilbert that</p> <p>22 McKesson Corp. was taking the matters</p> <p>23 seriously and was working to change their</p> <p>24 procedures."</p>	<p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 A. I don't recall that contact</p> <p>4 specifically. But I see it.</p> <p>5 Q. Okay. Are you saying that</p> <p>6 that contact did not occur on that day?</p> <p>7 A. No.</p> <p>8 Q. You're not saying that?</p> <p>9 A. Right. I don't have a</p> <p>10 recollection.</p> <p>11 Q. You don't recall either way,</p> <p>12 but do you have any reason to dispute</p> <p>13 this reference --</p> <p>14 A. No.</p> <p>15 Q. -- that that contact was</p> <p>16 made to you?</p> <p>17 A. No.</p> <p>18 Q. The next bullet point says,</p> <p>19 "The E-commerce section retrieved ARCOS</p> <p>20 data which revealed that between</p> <p>21 October 10 and October 21, 2005, the</p> <p>22 following alleged internet pharmacies</p> <p>23 received the identified quantities of</p> <p>24 hydrocodone." And then it lists six</p>
Page 119	Page 121
<p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Who is Mr. Gilbert?</p> <p>4 A. He's -- he is a lawyer.</p> <p>5 Q. One of McKesson's counsel at</p> <p>6 the time?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And then -- go ahead.</p> <p>9 A. He's an external lawyer.</p> <p>10 Q. Okay. Outside counsel?</p> <p>11 A. Yes.</p> <p>12 Q. Fair. So the next bullet</p> <p>13 point -- now we are in October 10, 2005,</p> <p>14 "A DEA investigator from the Tampa</p> <p>15 district office contacted Bill Mahoney at</p> <p>16 the McKesson distribution center in</p> <p>17 Lakeland, Florida and expressed concerns</p> <p>18 of hydrocodone sales to United</p> <p>19 Prescription Services."</p> <p>20 Do you see that?</p> <p>21 A. I see it.</p> <p>22 Q. You know that reference is</p> <p>23 to you, right? That Bill Mahoney there</p> <p>24 is you?</p>	<p>1 pharmacies below that.</p> <p>2 Do you see those?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. The first is United</p> <p>5 Prescription Services, which we talked</p> <p>6 about before, that during this 11-day</p> <p>7 period received 252,100 dosage units of</p> <p>8 hydrocodone.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And this is all</p> <p>12 talking about from McKesson, right?</p> <p>13 A. Yes.</p> <p>14 Q. And below that is Universal</p> <p>15 Rx during that same 11-day period,</p> <p>16 receiving 254,700 dosage units of</p> <p>17 hydrocodone.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. The next is Bi-Wise</p> <p>21 Pharmacy, 158,400 dosage units of</p> <p>22 hydrocodone on during that 11-day period.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p>

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1 Q. Then there's Avee Pharmacy,
2 520,200 dosage units of hydrocodone
3 during that 11-day period from McKesson.
4 Do you see that?
5 A. Yes.
6 Q. And then there's
7 MediPharm-Rx, 500,900 dosage units of
8 hydrocodone in 11 days.
9 Do you see that?
10 A. Yes.
11 Q. And the last one is Accumed
12 Pharmacy, 404,400 dosage units of
13 hydrocodone in that same 11-day period.
14 Do you see that?
15 A. Yes.
16 Q. And these are all -- this is
17 all information that you've seen before
18 today, right?
19 A. Yes.
20 Q. Okay. And then it goes on
21 in the letter, it says, "Mr. Rannazzisi
22 then addressed the representatives of
23 McKesson Corp. and informed them that it
24 was his concerted opinion, based on the

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1 information presented, the DEA needed to
2 ask for the surrender of McKesson's
3 Lakeland distribution center registration
4 or DEA would pursue an order to show
5 cause against the DEA registration of the
6 McKesson facility in Lakeland, Florida."
7 Do you see that?
8 A. Yes.
9 Q. Okay. And before we go on
10 further on that. These six pharmacies
11 were all customers of the Lakeland
12 distribution center, right?
13 A. Yes.
14 Q. Okay. And so we understand,
15 when he -- Mr. Rannazzisi references an
16 order to show cause, that's an
17 administrative proceeding where the DEA
18 can file to have McKesson, in this
19 circumstances, DEA registration to sell
20 controlled substances either suspended or
21 revoked, right?
22 A. Yes.
23 Q. And if that happens, you
24 can't sell controlled substances during

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1 that period. Or if it's revoked, you
2 can't sell them at all, right?
3 A. Correct.
4 Q. Okay. And ultimately, as to
5 Lakeland here, the DEA did file for an
6 order to show cause against the Lakeland
7 distribution center, right?
8 A. Yes.
9 Q. And going on in this letter
10 a little further down on the page, do you
11 see where it says, "Through the course of
12 the above discussion"?
13 A. Mm-hmm.
14 Q. It says, "Through the course
15 of the above discussion, McKesson Corp.
16 by their own admission was unable to
17 provide a plausible explanation for the
18 sales of over two million dosage units of
19 hydrocodone in a 21-day period to
20 pharmacies previously identified by DEA
21 to McKesson Corp."
22 Do you see that?
23 A. Yes.
24 Q. Okay. After this meeting in

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1 January 2006, were you aware that
2 Mr. Gilbert, outside counsel for
3 McKesson, wrote the DEA requesting that
4 the DEA not proceed with these order to
5 show cause proceedings? Were you aware
6 of that?
7 A. I believe so.
8 (Document marked for
9 identification as Exhibit
10 MCK-Mahoney-9.)
11 BY MR. BOGLE:
12 Q. I'm going to hand you what
13 I'm marking as Exhibit 1.1963, also
14 marked as Exhibit 9. Bates Number
15 MCKMDL00571360.
16 What we see here -- I'll
17 introduce the e-mail first, then we'll go
18 into the letter. It's from a Sherry
19 Cameron, January 18, 2006. Do you see
20 that, the date on the e-mail there?
21 A. Yes.
22 Q. Okay. And one of the
23 recipients -- I'm not going to read all
24 of them. But one of the recipients is

<p style="text-align: right;">Page 126</p> <p>1 you, right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And the subject is,</p> <p>4 "Letter to DEA regarding internet</p> <p>5 pharmacies." And then it's noted,</p> <p>6 "Attached is a copy of the letter that</p> <p>7 went out to DEA today."</p> <p>8 Do you see that?</p> <p>9 A. Okay, yeah.</p> <p>10 Q. Let's take a look at a</p> <p>11 couple components of this letter. First</p> <p>12 let's go to Page .3.</p> <p>13 The second sentence in this</p> <p>14 paragraph says, "After the September</p> <p>15 meeting with DEA, senior management</p> <p>16 responsible for all McKesson distribution</p> <p>17 centers were provided with a summary of</p> <p>18 the issues raised by DEA about internet</p> <p>19 pharmacies and DEA's view of what</p> <p>20 constitutes an illegal internet</p> <p>21 pharmacy."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. So at least what Mr. Gilbert</p>	<p style="text-align: right;">Page 128</p> <p>1 and more than 1,400 purchased controlled</p> <p>2 substances from the facility. DEA has</p> <p>3 stated that monthly sales of over 5,000</p> <p>4 dosage units of hydrocodone should be</p> <p>5 used as a flag to as to whether the</p> <p>6 pharmacy is dispensing legitimate</p> <p>7 prescriptions. However, excluding the</p> <p>8 six pharmacies identified by DEA, more</p> <p>9 than 85 other pharmacy customers order</p> <p>10 more than 5,000 dosage forms of</p> <p>11 hydrocodone per month from this</p> <p>12 facility."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And so what's being</p> <p>16 referenced here -- first of all, this</p> <p>17 reference to anything more than 5,000</p> <p>18 dosage units of hydrocodone being a</p> <p>19 potential flag, that's something that</p> <p>20 you've seen before today, right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And on a monthly</p> <p>23 basis, that's what's being referred to,</p> <p>24 right?</p>
<p style="text-align: right;">Page 127</p> <p>1 is representing here, is the materials</p> <p>2 that we looked at from September 2005</p> <p>3 from that DEA meeting, that at least a</p> <p>4 summary of that had been provided to</p> <p>5 people like you prior to January 18,</p> <p>6 2006, right?</p> <p>7 A. I'm not sure if I'm included</p> <p>8 in senior management. But I may have</p> <p>9 seen -- I'm sure I saw some information</p> <p>10 on internet pharmacy.</p> <p>11 Q. Okay. Do you think -- do</p> <p>12 you think you should have been provided</p> <p>13 that information?</p> <p>14 MR. SCHMIDT: Objection.</p> <p>15 Foundation.</p> <p>16 THE WITNESS: I believe I</p> <p>17 was in some format.</p> <p>18 BY MR. BOGLE:</p> <p>19 Q. Okay. If you go to the next</p> <p>20 page -- I'm looking at the next-to-last</p> <p>21 sentence on Page .4.</p> <p>22 And Mr. Gilbert writes</p> <p>23 here -- he says, "For example, the</p> <p>24 Lakeland DC serves about 1,700 customers</p>	<p style="text-align: right;">Page 129</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And so what</p> <p>3 Mr. Gilbert is indicating here is, it's</p> <p>4 not just the six pharmacies, but 85 other</p> <p>5 ones at your Lakeland facility at this</p> <p>6 point in time, they're getting more than</p> <p>7 5,000 dosage units of hydrocodone per</p> <p>8 month, right? That's what he's saying</p> <p>9 there?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And that would have</p> <p>12 been while you were the distribution</p> <p>13 center manager, right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So after being made</p> <p>16 aware that the DEA's view was that</p> <p>17 anything over 5,000 dosage units a month</p> <p>18 for hydrocodone was a potential flag, did</p> <p>19 you or anyone at McKesson go back and</p> <p>20 look at these other 85 pharmacies and</p> <p>21 assess whether they should be cut off,</p> <p>22 have their orders blocked?</p> <p>23 A. I believe we did some</p> <p>24 review. I'm not sure exactly how it was</p>

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1 conducted.
2 Q. Okay. Would you have been
3 involved in conducting it?
4 A. I believe so.
5 Q. Okay. And so these other 85
6 pharmacies, we'll talk about the other
7 six as we go along, but he references 85
8 other ones. None of those other
9 customers were cut off, were they?
10 MR. SCHMIDT: Objection.
11 Foundation.
12 THE WITNESS: I'm not sure.
13 BY MR. BOGLE:
14 Q. Okay. Can you recall as you
15 sit here today, any one customer out of
16 those 85 that was cut off?
17 A. Between October and January?
18 Q. Let's say at any point in
19 time in 2006 or 2005.
20 A. I'm not -- I'm not sure
21 about dates. But I know that I did cut
22 off some customers, certainly 2006.
23 Q. Okay. Out of those 85 here?
24 A. I'm not sure. I don't have

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1 a list of the 85.
2 Q. Okay. But going forward
3 after this -- after January 2006, 5,000
4 dosage units per month was not used as
5 any sort of hard cut-off for customers,
6 was it, for hydrocodone?
7 A. No, I don't believe so.
8 Q. Okay. We talked about the
9 fact, a moment ago, that the DEA did
10 proceed with order to show cause
11 proceedings against McKesson as to the
12 Lakeland distribution center. I just
13 want to take a look at some more
14 information related to that.
15 I'm going to hand you what
16 I'm marking as Exhibit 1.1943, which is
17 also Exhibit 10.
18 (Document marked for
19 identification as Exhibit
20 MCK-Mahoney-10.)
21 MR. BOGLE: Start Bates is
22 MCK_MDL_00496306.
23 BY MR. BOGLE:
24 Q. Okay. Start by sort of

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1 orienting you to this document since it's
2 a larger one here. You see on the front
3 page there is a list of pleadings from
4 the order to show cause proceedings
5 involving Lakeland. Do you see that
6 generally?
7 A. Yes.
8 Q. Okay. Have you seen this
9 before, this document?
10 A. I'm not sure.
11 Q. Okay. All right. Let's
12 take a look first at, looking at the
13 Bates numbers, it's 6309, excuse me.
14 I think it's the third page,
15 or the fourth page of the document?
16 A. Mm-hmm.
17 Q. And you see this is the
18 actual order to show cause that was filed
19 by the DEA, do you see that?
20 A. Yes.
21 Q. Okay. And you've seen this
22 before, right?
23 A. Yes.
24 Q. Okay. And what was being

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1 requested here was an order to show cause
2 to McKesson to explain why its license to
3 sell controlled substances should not be
4 revoked at the Lakeland distribution
5 center, right?
6 A. Yes.
7 Q. Okay. Which is -- that's
8 serious, right? That's a serious thing
9 to happen, isn't it?
10 A. Absolutely.
11 Q. Okay. That's not a measure
12 that DEA takes very frequently, do they?
13 A. No.
14 Q. And looking at the order to
15 show cause here, under Number 3, it says,
16 "In an April 27, 2001 policy statement
17 entitled Dispensing and Purchasing
18 Controlled Substances Over the Internet,"
19 and it gives the reference, "DEA
20 delineated certain circumstances in which
21 prescribing over the internet is
22 unlawful."
23 Do you see that?
24 A. Yes.

<p style="text-align: right;">Page 134</p> <p>1 Q. Have you ever seen that 2 policy statement before, from '01? 3 A. I've seen reference to it. 4 I am not sure if I've seen the statement 5 itself. 6 Q. Okay. So when you got this, 7 this order to show cause and saw this 8 reference, did you make an effort to try 9 to track that actual policy statement 10 down to review it to make sure you 11 understood it? 12 A. I'm not sure. 13 Q. Okay. 14 A. I think I may have seen 15 information which was a distillation of 16 it. 17 Q. Okay. Around this time 18 period, in '06, or some other time 19 period? 20 A. I assume so. 21 Q. Well, that -- sorry. Let me 22 ask it different -- go ahead. 23 A. Well, you were saying that, 24 based on this, did that trigger me to go</p>	<p style="text-align: right;">Page 136</p> <p>1 relationship are lacking, controlled 2 substance prescription drugs cannot only 3 be misused, but also potentially" -- 4 "also present potentially serious health 5 risks to patients. Such rogue internet 6 pharmacies facilitate the easy 7 circumvention of legitimate medical 8 practice and dispense quantities of 9 controlled substances far beyond what 10 normal walk-in or mail-order pharmacies 11 dispense." 12 Do you see that? 13 A. Yes. 14 Q. This term "rogue internet 15 pharmacies," what do you understand that 16 to mean? 17 A. I understand it to mean 18 illegal -- pharmacies that are acting 19 illegally to sell hydrocodone or 20 oxycodone or other -- other products. 21 Q. Okay. 22 A. In some cases I think it was 23 Viagra and Cialis and that kind of thing. 24 Q. Okay. And -- but</p>
<p style="text-align: right;">Page 135</p> <p>1 look at it. 2 Q. Correct. 3 A. Okay. And I think that I 4 acquired in some form, but I'm not sure 5 exactly if I saw that itself. 6 Q. Okay. So when you saw this 7 reference in the order to show cause in 8 2006 and you inquired, is that because 9 you had not heard of that policy before? 10 A. No, I think I had heard of 11 it. But maybe I looked at it closer. 12 You know, to try to understand more 13 specifically what all was included. 14 Q. Okay. So the next sentence 15 where we left off says, "Many internet 16 pharmacies bypass a legitimate 17 doctor/patient relationship usually by 18 use of a cursory online questionnaire or 19 perfunctory telephone consult with a 20 doctor who has a contractual arrangement 21 with the online pharmacy and is often 22 paid on the basis of prescriptions 23 issued. When the established safeguards 24 of an authentic doctor/patient</p>	<p style="text-align: right;">Page 137</p> <p>1 specifically in the order to show cause 2 in Lakeland it was hydrocodone? 3 A. Right. Yes. 4 Q. I understand that you're 5 talking more generally and that's fine. 6 A. Right. 7 Q. So let's go to Number 5 on 8 the order to show cause. 9 A. Page 5? 10 Q. No. I'm sorry, it's 11 Number 5. 12 A. Oh, okay. 13 Q. Yeah, I thought that might 14 be easier to... 15 A. Yeah. 16 Q. It says, "Subsequently," and 17 this is subsequent to the September 1, 18 2005 meeting. Do you see that, that's 19 the prior paragraph? 20 A. Yes. 21 Q. "Subsequently DEA officials 22 reviewed ARCOS reports for the period 23 October 1, 2005 to January 31, 2006, and 24 found that seven Florida pharmacies were</p>

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1 still acquiring extraordinary quantities
2 of hydrocodone. Despite its knowledge of
3 suspicious internet practices,
4 McKesson-Lakeland was engaged in a
5 continuing practice of supplying
6 hydrocodone to these seven pharmacies."
7 Do you see that?
8 A. Yes.
9 Q. You've seen that allegation
10 before today, right?
11 A. Yes.
12 Q. And then they go on to talk
13 about some of the specific pharmacies. I
14 wanted to look at Number 8 here on the
15 list. It says, "A further review of
16 ARCOS data for the full year 2005
17 indicated that MediPharm and Universal
18 ranked sixth and ninth respectively in
19 the nation for hydrocodone purchases.
20 Furthermore, for the full year 2005,
21 MediPharm, Universal, Avee and United
22 ranked Number 1 through 4 for purchases
23 of hydrocodone in the state of Florida."
24 Do you see that?

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1 A. Yes.
2 Q. Okay. And McKesson at this
3 point in time in 2005 had the ability to
4 see how much a customer was purchasing
5 from McKesson, hydrocodone specifically,
6 versus other customers of McKesson,
7 right? You can rank your own customers
8 as far as what they were purchasing?
9 MR. SCHMIDT: Objection.
10 BY MR. BOGLE:
11 Q. Right?
12 MR. SCHMIDT: Object to
13 form. Compound.
14 THE WITNESS: I'm not sure
15 if I saw that kind of a ranking
16 internally.
17 BY MR. BOGLE:
18 Q. Yeah, so -- and I'll
19 rephrase the question, because maybe it
20 was a little -- a bad question.
21 McKesson in 2005 had the
22 ability to assess how much a specific
23 customer was purchasing of hydrocodone
24 versus other McKesson customers, right?

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1 A. Yes.
2 Q. Now I'm doing Number 10
3 here. It says, "An analysis of ARCOS
4 data regarding purchases made during the
5 four-month period, October 2005 through
6 January 2006, indicated that the national
7 average and Florida average hydrocodone
8 purchases was approximately 24,000
9 tablets per pharmacy."
10 Do you see that?
11 A. Yes.
12 Q. Okay. And then it says,
13 "Over that same four-month period, the
14 seven internet pharmacies received
15 between 245,000, and 3.5 million tablets.
16 Most of these hydrocodone tablets were
17 acquired from McKesson-Lakeland."
18 Do you see that?
19 A. Yes.
20 Q. Okay. And that's an
21 accurate statement, right, as far as how
22 much -- that most of those hydrocodone
23 pills for these seven pharmacies were
24 obtained from McKesson-Lakeland, right?

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1 A. I -- I'm not sure what the
2 ratio was, but I don't have any reason to
3 disagree.
4 Q. Okay. And the last thing I
5 want to look at on the order to show
6 cause is Number 12.
7 It says, "DEA investigators
8 later commenced an analysis of all
9 reported purchases and purchase records
10 of controlled substances to establish
11 percentages of sales for the seven
12 pharmacies. For the month January 2006,
13 the percentage of sales that were
14 hydrocodone sales for these seven
15 pharmacies were as follows: Accumed,
16 77.7 percent."
17 Do you see that?
18 A. Yes.
19 Q. That, that ratio of
20 hydrocodone versus overall purchases
21 would be a red flag, right?
22 MR. SCHMIDT: Objection.
23 Foundation.
24 THE WITNESS: Yes.

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1 BY MR. BOGLE:
2 Q. Okay. I mean that's a very
3 high number, we can agree on that, right?
4 A. Yes.
5 Q. And then Avee is listed at
6 79.7 percent. Bi-Wise, 83.3 percent.
7 MediPharm, 87.6 percent. Trelles,
8 41.3 percent. United, 90.1 percent. And
9 Universal, 77 percent.
10 And that's hydrocodone, be
11 the percentage of hydrocodone of their
12 overall purchases. Do you see that?
13 A. On a -- on a dosage unit
14 basis?
15 Q. Right.
16 A. Okay.
17 Q. Percentage of sales is what
18 it says -- I'm sorry. That's the
19 reference. Dollarized?
20 A. Okay. I agree that they are
21 high percentages.
22 Q. Okay. All right. You don't
23 have any reason to disagree that all of
24 those numbers would present red flags for

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1 potential diversion, right?
2 MR. SCHMIDT: Objection.
3 Foundation.
4 THE WITNESS: I would agree
5 that they're high.
6 BY MR. BOGLE:
7 Q. Right. And when you see a
8 number -- numbers that are that high,
9 there is concern for potential diversion,
10 right?
11 A. Concern, yeah, right.
12 Q. Do you know what the
13 averages were at this point in time,
14 2005, 2006 the DEA provided as far as
15 percentages of hydrocodone versus overall
16 purchases?
17 A. I don't.
18 Q. But you know all these
19 numbers were well above what even a
20 McKesson customer would even average
21 during that time frame, right?
22 A. I imagine --
23 MR. SCHMIDT: Objection.
24 Foundation.

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1 BY MR. BOGLE:
2 Q. I'm sorry?
3 A. I imagine they were.
4 Q. Okay. And then the next
5 sentence where we left off says, "These
6 percentages of hydrocodone sales are
7 clearly indicative of a large scale
8 internet dispensing activity and are far
9 beyond the hydrocodone sales activities
10 of a true walk-in pharmacy or mail order
11 pharmacy."
12 Do you see that?
13 A. I see it.
14 Q. Do you have any reason to
15 dispute the accuracy of that statement,
16 that sentence?
17 MR. SCHMIDT: Objection.
18 Foundation.
19 THE WITNESS: I'm not sure.
20 I went to multiple pharmacies
21 listed here, and I didn't see
22 anything that told me that it was
23 a rogue operation.
24 BY MR. BOGLE:

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1 Q. Okay. You went at what
2 point in time, before or after this order
3 to show cause? We'll start there.
4 A. Oh, before the order, yeah.
5 Q. So you went -- so could you
6 recall which of these seven pharmacies
7 you visited?
8 A. I know I visited Avee,
9 Bi-Wise, MediPharm.
10 Q. When you say visited, you're
11 talking about actually -- you're talking
12 about going to the pharmacy itself,
13 right?
14 A. Went to the site, yeah.
15 Q. As part of those visits, did
16 you ask for them to tell you which
17 doctors were doing the prescribing of
18 hydrocodone for what they were filling?
19 A. In the wake of the earlier
20 activity, we had implemented a
21 questionnaire system. And I used that as
22 the basis for some of my discussion with
23 them. I don't think that I asked
24 specifically who the doctor was that was

<p style="text-align: right;">Page 146</p> <p>1 prescribing the scripts that they were 2 filling. 3 Q. Okay. That's something that 4 you guys do now though, right, when 5 there's concerns about potential 6 diversion? 7 A. Sometimes, yes. 8 Q. Okay. Because looking at 9 the doctors that are prescribing can give 10 you more information about whether there 11 is concerns about those doctors, right? 12 A. Yeah. If certain parameters 13 are met, then we do request information 14 about the doctors who are the leading 15 prescribers. 16 Q. Do today, right? 17 A. Yes. 18 Q. But not in 2005 or 2006, 19 right? 20 A. No, I don't believe we were. 21 Q. Okay. We can go now to 22 Bates page ending 6326 on this document. 23 And I just want to start 24 here to introduce what this is referring</p>	<p style="text-align: right;">Page 148</p> <p>1 and 841(a)(1) in that the owners, 2 pharmacists, and employees all have 3 direct knowledge that there's no 4 legitimate physician/patient relationship 5 established between the purported 6 prescribing physician and the customers 7 who ordered controlled substances 8 directly through the websites. Each of 9 these pharmacies received hydrocodone 10 distribution is from McKesson-Lakeland." 11 Do you see that? 12 A. Mm-hmm. 13 Q. And that's the same seven 14 pharmacies that we just looked at a 15 moment ago, right? 16 A. Yes. 17 Q. And those were the seven 18 pharmacies that were at issue in the 19 order to show cause, right? 20 A. Yes. 21 Q. Now, in and around the 2006 22 time frame, McKesson-Lakeland had sales 23 of controlled substances of about -- 24 strike that.</p>
<p style="text-align: right;">Page 147</p> <p>1 to. Do you see the title here, 2 "Diversion investigator Michael Mapes 3 proposed testimony." 4 A. Yes. 5 Q. Do you see that reference? 6 A. Mm-hmm. 7 Q. And again, Michael Mapes was 8 one of the DEA agents that we saw 9 earlier, right, head of the E-commerce 10 section at that time, right? 11 A. Right. 12 Q. And so going a couple more 13 pages in to his proposed testimony -- I'm 14 looking at Page 6328. And the paragraph 15 in the middle that says, "Mr. Mapes will 16 testify." 17 Do you see that? 18 A. Mm-hmm. 19 Q. It says, "Mr. Mapes will 20 testify that he concludes that seven 21 Tampa, Florida area internet pharmacy 22 operations have been distributing 23 controlled substances in violation of 24 Title 21 United States Code Sections 829</p>	<p style="text-align: right;">Page 149</p> <p>1 In and around the 2006 time 2 frame, controlled substances accounted 3 for about 15 percent of the overall sales 4 at Lakeland, right? 5 A. I'm not sure of the exact 6 number. 7 Q. Okay. All right. Let's 8 take a look at Page 6350 in this 9 document. And here there's a summary of 10 proposed testimony, and the first person 11 listed is you. 12 Do you see that? 13 A. Yes. 14 Q. Okay. And this is, I'll 15 represent to you, McKesson disclosing 16 what they think you are going to testify 17 to -- 18 A. Yes. 19 Q. -- in this proceeding. 20 And you would have been 21 involved in drafting this, right, what 22 you proposed you were going to say? 23 A. I imagine. 24 Q. Okay. And the last sentence</p>

<p style="text-align: right;">Page 150</p> <p>1 on this page says, "The Lakeland DC 2 distributes to customers nationwide, but 3 primarily to customers in Florida, 4 Georgia and Alabama." 5 A. I'm lost here. 6 Q. Yeah. 7 A. So the last line? 8 Q. The very last, yeah. I'll 9 start back over so you're with me. It 10 says, "The Lakeland DC distributes to 11 customers nationwide" -- 12 A. Right. 13 Q. -- "but primarily to 14 customers in Florida, Georgia, and 15 Alabama." That's a true statement at 16 that point in time, right, in 2006? 17 A. Yes. 18 Q. Okay. Then it says, "The 19 average monthly sales of healthcare 20 products for this facility exceeds \$250 21 million. About 15 percent of these sales 22 involves controlled substances." 23 Do you see that? 24 A. I see it.</p>	<p style="text-align: right;">Page 152</p> <p>1 Page 6359 in this document, I'll take you 2 to it so you don't have to guess. 3 This is a continuation of 4 what McKesson proposes that you're going 5 to testify to. 6 A. Okay. 7 Q. It says -- I'm looking at 8 the bottom full paragraph. 9 A. Okay. 10 Q. It says, "Mr. Mahoney will 11 testify that on November 22, 2005, as a 12 result of a decision made by Donald 13 Walker, senior vice president of 14 distribution operations, the Lakeland DC 15 dramatically reduced sales to six 16 pharmacies. Mr. Mahoney will testify 17 that he was aware that DEA had provided 18 the names of the six pharmacies to 19 McKesson as pharmacies of concern through 20 outside counsel. Initially, these 21 pharmacies were reduced to only 300 22 dosage units of hydrocodone per day." 23 Do you see that? 24 A. Yes.</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. Any reason to believe those 2 numbers are inaccurate at that point in 3 time? 4 A. No. Although I think it may 5 be dollarized as opposed to dosage units. 6 I'm not sure. 7 Q. Okay. 15 percent of the 8 dollar sales, you're saying? 9 A. That's what I'm inferring. 10 Q. Okay. And so after this -- 11 strike that. 12 In late 2005, for these 13 seven customers, your distribution center 14 did establish a reduced daily allotment 15 of hydrocodone initially for these 16 customers, correct? 17 A. Yes. 18 Q. Do you recall that? 19 A. Mm-hmm. 20 Q. And initially it was at 300 21 dosage units of hydrocodone per day, is 22 what you capped them at, right? 23 A. I believe so. 24 Q. Okay. And if it helps you,</p>	<p style="text-align: right;">Page 153</p> <p>1 Q. So we go 30 days in a month, 2 300 doses a day, what, 9,000 doses a 3 month? 4 A. Yes. 5 Q. Okay. That's still double, 6 almost double what the DEA said would be 7 considered a red flag at 5,000, right? 8 A. Yes. 9 Q. Okay. And -- but if you 10 look here, that was on November 22nd, 11 2005. 12 And then on the next page 13 which is a continuation of your proposed 14 testimony, the bottom paragraph says, 15 "Mr. Mahoney will also testify that on 16 November 29, 2005, the Lakeland DC 17 received a report from Pete Pardo, a 18 senior sales representative, about some 19 of the pharmacies in question. Pete 20 Pardo had conducted a due diligence audit 21 at five of the six pharmacies where the 22 Lakeland DC had reduced sales of 23 hydrocodone." 24 Do you see that?</p>

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1 A. Yes.
 2 Q. So Pete Pardo, it references
 3 him as a senior sales representative.
 4 Did he work specifically for your
 5 distribution center?
 6 A. Yes.
 7 Q. Okay. Did you send him out
 8 there to do that?
 9 A. I was involved with that,
 10 yeah.
 11 Q. As we continue on, it says,
 12 "Mr. Pardo had used the internet
 13 questionnaire developed by McKesson as
 14 well as additional questions provided by
 15 McKesson about its business. Based on
 16 these responses, Mr. Walker agreed to
 17 increase the daily sales to these
 18 customers to 2,000 dosage units."
 19 Do you see that?
 20 A. Yes.
 21 Q. So again, just rough math,
 22 2,000 dosage units of hydrocodone per day
 23 at 30 days in a month, that's 60,000
 24 dosage units per month is what they would

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1 still be allowed to purchase, right?
 2 A. Yes.
 3 Q. Okay. Which, again, we
 4 talked about earlier, the DEA said
 5 anything over -- around the same time
 6 frame, anything over 5,000 dosage units
 7 for hydrocodone was a potential flag for
 8 diversion, right?
 9 MR. SCHMIDT: Objection.
 10 Foundation.
 11 THE WITNESS: Potential
 12 flag, yeah.
 13 BY MR. BOGLE:
 14 Q. Right.
 15 A. Mm-hmm.
 16 Q. And the main reason that
 17 McKesson -- actually, strike that.
 18 So after the DEA let you
 19 know that there are potential concerns
 20 about these pharmacies, you guys didn't
 21 cease to provide hydrocodone to these
 22 customers, did you?
 23 A. No.
 24 Q. That's something that you

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1 could have done, right?
 2 A. Correct.
 3 Q. And the fact of the matter
 4 is, the main reason these customers
 5 weren't cut off is because they were
 6 purchasing a lot from McKesson, right?
 7 A. I don't believe that was the
 8 motivation.
 9 Q. Okay. The fact of the
 10 matter is they were purchasing a lot of
 11 hydrocodone from your distribution
 12 center, right, during this time frame?
 13 Just sheer quantities, we can agree on
 14 that, right?
 15 A. I see that.
 16 Q. The more pills you sell, the
 17 more money McKesson makes. That's just a
 18 fact, correct?
 19 A. Not always, but I understand
 20 what you're saying.
 21 Q. Okay. That's how business
 22 in the pharmacy distribution business
 23 works, right? The more pills you sell --
 24 the idea is the more pills you sell, the

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1 more you distribute, the more money is
 2 made, right?
 3 MR. SCHMIDT: Objection.
 4 BY MR. BOGLE:
 5 Q. That's how the general
 6 business operates, right?
 7 MR. SCHMIDT: Objection.
 8 Foundation.
 9 THE WITNESS: I wasn't -- I
 10 wasn't really trying to maximize
 11 sales. I was trying to control
 12 these things in an appropriate
 13 way.
 14 BY MR. BOGLE:
 15 Q. Yeah, but that -- my
 16 question was simply that that's how the
 17 business, the pharmacy distribution
 18 business works, right, the more you sell,
 19 the more you make, right?
 20 MR. SCHMIDT: Same
 21 objection. Foundation.
 22 BY MR. BOGLE:
 23 Q. True?
 24 A. I'm not sure if that's true.

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1 Q. Okay. So these 2-plus
 2 million doses over this three-month
 3 period of time to these seven pharmacies,
 4 it's your testimony that had you guys
 5 sold zero to them, you would have made as
 6 much or more?

7 A. I -- I didn't say that.

8 Q. Okay. Well, then that's my
 9 question then. Do you think had you sold
 10 zero hydrocodone to these seven
 11 pharmacies in that three-month period of
 12 time, rather than 2-plus million doses,
 13 that you would have made just as much
 14 money?

15 MR. SCHMIDT: Objection.
 16 Foundation.

17 THE WITNESS: I -- I agree
 18 with what you're saying.

19 BY MR. BOGLE:

20 Q. Okay. In fact, from
 21 October 2005 to January 2006, these seven
 22 customers comprised almost 50 percent of
 23 the hydrocodone sold by McKesson
 24 nationwide, didn't they?

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1 MR. SCHMIDT: Objection.
 2 Foundation.

3 THE WITNESS: I'm not sure
 4 about that.

5 BY MR. BOGLE:

6 Q. Okay. I'm going to hand you
 7 what I'm marking as Exhibit 1.1947.
 8 Exhibit 11. Start Bates is
 9 MCK_MDL_00497154.
 10 (Document marked for
 11 identification as Exhibit
 12 MCK-Mahoney-11.)

13 MR. SCHMIDT: Are you done
 14 with this one?

15 MR. BOGLE: I'm done for
 16 now, but it's one we'll come back
 17 to at some point. So however you
 18 want to deal with that.

19 MR. SCHMIDT: I'll dig it
 20 out when we come back to it.

21 MR. BOGLE: It's an easy one
 22 to find.

23 BY MR. BOGLE:

24 Q. Okay. So I want to

Page 160

1 introduce this document to you here. Oh,
 2 sorry.

3 This is another government
 4 Exhibit 38. Do you see that little stamp
 5 there?

6 A. Yes.

7 Q. Okay. And I'll represent to
 8 you this is another exhibit from the DEA
 9 to be utilized in the order to show cause
 10 proceeding. Have you ever seen this
 11 document before?

12 A. I'm not sure that I have.

13 Q. Okay. We see it's titled at
 14 the very top, McKesson Hydrocodone Sales
 15 For October 1, 2005, Through January 31,
 16 2006, Ran June 1, 2006.

17 Do you see that?

18 A. Yes.

19 Q. That title?

20 Okay. Let's go to the
 21 second page here.

22 There's a chart that says
 23 McKesson Hydrocodone Distributions,
 24 October 1, 2005, through January 31,

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1 2006. And it lists the seven pharmacies
 2 we've been talking about, Accumed, Avee,
 3 Bi-Wise, MediPharm, Trelles, United
 4 Prescription, Universal Rx. Do you see
 5 those listed?

6 A. Yes.

7 Q. Okay. And then it lists 299
 8 other pharmacies for hydrocodone.

9 And it combines the two for
 10 a grand total of 17, 136,250 doses during
 11 that time frame. Do you see that?

12 A. Yes.

13 Q. Okay. And of those
 14 17 million plus doses, approximately
 15 7 million of the 17 million come from
 16 those seven pharmacies, right?

17 A. Okay.

18 Q. Do you see that?

19 A. Yeah.

20 Q. Okay. So that's
 21 40ish percent of the overall hydrocodone
 22 sales to the seven pharmacies during that
 23 three months --

24 MR. SCHMIDT: Objection.

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1 Foundation.
2 BY MR. BOGLE:
3 Q. -- versus the 299 other
4 pharmacies that McKesson distributed to?
5 MR. SCHMIDT: Objection.
6 Foundation.
7 THE WITNESS: There are more
8 than 299 pharmacies in Florida,
9 much less nationwide that we
10 distributed hydrocodone to.
11 BY MR. BOGLE:
12 Q. Okay. So you think this was
13 from the Lakeland distribution center
14 only?
15 A. I don't know. I don't know
16 what 299 pharmacies you're talking about.
17 Q. Okay. Well, it certainly
18 lists here 299 pharmacies where 10 --
19 10,767,050 doses of hydrocodone were
20 provided during this time frame,
21 juxtaposed to seven pharmacies that
22 received almost 7 million. Do you see
23 that?
24 A. Yes.

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1 Q. Okay. And you would agree
2 with me that those seven pharmacies, when
3 compared to the other 299, received a
4 disproportionate amount of hydrocodone
5 during this period of time?
6 A. Yeah, a high concentration.
7 Q. Okay. And --
8 A. Is this DEA generated?
9 Q. Yes, this is an exhibit to
10 the show cause proceeding. That's why it
11 says Government 38.
12 A. Okay.
13 Q. And during this same time
14 frame, October 2005 to January of '06,
15 these seven pharmacies were some of the
16 highest purchasing pharmacies in the
17 country for hydrocodone, right?
18 MR. SCHMIDT: Objection.
19 Foundation.
20 THE WITNESS: I don't know.
21 BY MR. BOGLE:
22 Q. You don't know?
23 A. When you said that two of
24 them were in the top -- top 10, 6 and 9

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1 for --
2 Q. Which is pretty high, right?
3 A. Yeah. But it's -- that's
4 two out of the ten.
5 Q. Seven. There's seven
6 pharmacies we are talking about.
7 A. Okay. But you are talking
8 about the top ten nationwide?
9 Q. No, I said some of the top I
10 believe is what I said.
11 A. Okay.
12 Q. Were some of the highest
13 purchasing pharmacies for hydrocodone in
14 the country. That was my question.
15 A. Okay. Can you repeat the
16 question?
17 Q. Sure. These seven
18 pharmacies were some of the highest
19 purchasing pharmacies for hydrocodone in
20 the nation from October 2005 through
21 January of '06, true?
22 MR. SCHMIDT: Objection.
23 Foundation.
24 THE WITNESS: You are

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1 talking about for McKesson?
2 BY MR. BOGLE:
3 Q. Yeah.
4 MR. SCHMIDT: Same
5 objection.
6 THE WITNESS: I believe so.
7 BY MR. BOGLE:
8 Q. Okay. All right. I'm going
9 to hand you what I'm marking as
10 Exhibit 12, which is also marked as
11 1.1951.
12 (Document marked for
13 identification as Exhibit
14 MCK-Mahoney-12.)
15 MR. BOGLE: Bates number
16 MCKMDL00496536.
17 MR. SCHMIDT: While he's
18 looking at that I think we're
19 about an hour. Maybe after this
20 document, can we take a break?
21 MR. BOGLE: Yeah, we can
22 take one now if you want.
23 MR. SCHMIDT: No, if you
24 want to go through the document.

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1 I don't want you to get --
2 BY MR. BOGLE:
3 Q. Well, I'll hand you -- all
4 right. And again, this is government
5 Exhibit 3. Do you see that statement on
6 it there?
7 A. Mm-hmm.
8 Q. And I'll represent to you
9 this came from McKesson as being part of
10 the show cause exhibits for the Lakeland
11 show cause proceeding that was given to
12 us.
13 A. Mm-hmm.
14 Q. You see there's actually a
15 stamp at the bottom, Drug Enforcement
16 Administration.
17 A. Right.
18 Q. Right? Do you see that?
19 A. Mm-hmm.
20 Q. Okay. So you have seen this
21 data before, these pharmacy rankings?
22 A. I don't think so actually.
23 Q. Okay. Says at the top,
24 "Pharmacy rankings for hydrocodone,

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1 October 1, 2005, through January 31,
2 2006."
3 And for example, there's
4 Avee Pharmacy. U.S. ranking Number 6.
5 State ranking in Florida, Number 2. Do
6 you see that?
7 A. Yes.
8 Q. Okay. MediPharm, another
9 one we've been talking about. U.S.
10 ranking for hydrocodone, Number 3 in the
11 country, Number 1 in the state. And for
12 MediPharm, 3,565,400 dosage units of
13 hydrocodone during this period of time.
14 Do you see that?
15 A. Mm-hmm.
16 Q. Is that a yes?
17 A. Yes.
18 Q. Okay. And for example,
19 Universal Rx, Number 9 in the country,
20 Number 4 in the state for hydrocodone
21 during this time period. Do you see
22 that?
23 A. Yes.
24 Q. And then I wanted to look at

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1 a couple of the charts that came with
2 this.
3 So if you go to Bates page
4 ending 6538.
5 A. 8?
6 Q. 6538, sir.
7 This title says, "Comparison
8 of hydrocodone purchases by pharmacies,"
9 and it talks about Avee Pharmacy
10 specifically?
11 A. Okay.
12 Q. So this chart says,
13 "Comparison of hydrocodone purchases by
14 pharmacies, October 1, 2005, to
15 January 31, 2006." And do you see this
16 references Avee Pharmacy, right?
17 A. Yes.
18 Q. That's what the first block
19 is.
20 A. I see.
21 Q. And it's 1,955,700 doses
22 during that time period. Do you see
23 that?
24 A. Yes.

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1 Q. The DEA lists the Florida
2 average and the U.S. average as well in
3 comparison, do you see that?
4 A. Yes.
5 Q. Florida average being 23,850
6 during that time frame. U.S. average
7 being 24,227. Do you see that?
8 A. Yes.
9 Q. Okay. So we can agree that
10 Avee Pharmacy during this time period was
11 substantially higher than both the U.S.
12 and Florida averages for hydrocodone,
13 right?
14 MR. SCHMIDT: Objection.
15 Foundation.
16 THE WITNESS: Yes.
17 BY MR. BOGLE:
18 Q. Okay. Did McKesson at this
19 point in time in '05 or '06 run any sort
20 of comparisons like this on its customers
21 to say how does this customer compare to
22 our average customer?
23 A. I don't know if this all
24 came from McKesson that you're talking

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1 about here. But I don't think that we
2 had this -- the metrics that we do now in
3 terms of how they rank relative to other
4 pharmacies.
5 Q. Okay. And so specifically
6 going back to my question though, would
7 McKesson in '05 or '06 look at how a
8 specific customer compared for
9 hydrocodone purchases versus all the
10 other customers for McKesson?
11 A. '05 or '06. I'm sure that
12 there were some analyses done. That
13 information would probably have been
14 shared with me.
15 Q. Okay. So before these sales
16 were made by McKesson to these seven
17 pharmacies, you would have looked at that
18 to see how they compared to your other
19 customers?
20 A. No, I think it was done
21 after the fact.
22 Q. Okay. So -- and you said
23 that you're not sure whether all of this
24 was purchased from McKesson. The fact of

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1 the matter is, from 2005 and 2006,
2 McKesson also wasn't asking its customers
3 how much they were purchasing from other
4 distributors either, were they?
5 A. I'm not sure -- I'm not sure
6 if that was included in the
7 questionnaire.
8 Q. Okay. Do you specifically
9 recall having asked any of these seven
10 pharmacies before --
11 A. How much they were buying
12 from other people?
13 Q. Yes, sir. Hydrocodone
14 specifically.
15 A. I don't believe so.
16 Q. All right. There's one more
17 page on this and then we can take a
18 break.
19 Sorry, I lost my place.
20 If you look, there's a
21 similar chart on Page 6544 for Universal
22 Rx. So from October 1, 2005, to
23 January 31, '06, for Universal Rx, it's
24 noted that for hydrocodone they purchased

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1 1 -- 1,622,900 doses. Do you see that?
2 A. I see it.
3 Q. Compared to the, again, the
4 Florida and the U.S. averages, Florida
5 being 23,850 and the U.S. average isn't
6 listed there, but we saw earlier that was
7 24,227. Do you see that?
8 A. Yes.
9 Q. Okay. Again, you can agree
10 with me that's substantially higher than
11 both of those averages, right?
12 A. Yes.
13 MR. BOGLE: Okay. We can
14 take a break now.
15 THE VIDEOGRAPHER: Stand by
16 please. Remove your microphones.
17 The time is 11:35 a.m. Going off
18 the record.
19 (Short break.)
20 THE VIDEOGRAPHER: Okay. We
21 are back on the record. The time
22 is 11:55 a.m.
23 BY MR. BOGLE:
24 Q. Okay. Mr. Mahoney, if we

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1 can start by going back to Exhibit 7.
2 It's the one that looks like this on the
3 front. The September 1, 2005, memorandum
4 and slide deck.
5 A. Okay.
6 Q. If you can go back to
7 Page 4 on this document. Do you recall
8 we talked earlier about, as part of this
9 September 1, 2005, presentation from DEA
10 to folks at McKesson, there was a slide
11 about issues to consider at the bottom
12 here. Do you see that?
13 A. Yes.
14 Q. And one of the things from a
15 suspicious order monitoring perspective
16 the DEA said McKesson should consider, is
17 the percentage of controlled versus
18 noncontrolled purchases for a customer,
19 right?
20 A. Yes.
21 Q. You recall we talked about
22 that a little bit earlier, right?
23 A. Yes.
24 Q. Okay. And if such an

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1 evaluation had been done on these seven
2 pharmacies we've been talking about that
3 were subject to the Lakeland show cause
4 proceeding, it would have been pretty
5 clear there were red flags present about
6 the percentage of controlled substance
7 purchases, specifically hydrocodone,
8 versus noncontrolled purchases at these
9 seven pharmacies, right?

10 MR. SCHMIDT: Objection.
11 Characterization.

12 THE WITNESS: I'm not sure
13 if that's true. Because the way
14 we were looking at it at the time
15 was on a dollarized basis.

16 BY MR. BOGLE:
17 Q. Okay. But what the -- the
18 DEA is talking about here is, percentages
19 of sales, not dollars in sales, right?

20 A. Yes.

21 Q. Okay. So had you looked at
22 it from the basis of percentages prior to
23 these sales beginning in October '05 and
24 January '06, those percentages would have

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1 been indicative of red flags for
2 diversion for these seven pharmacies,
3 true?

4 MR. SCHMIDT: Same
5 objection. Characterization.

6 THE WITNESS: And I'm not
7 sure if you understand what I'm
8 saying. If you dollarize those
9 and then do the controls to Rx on
10 a dollarized basis, I'm not sure
11 what numbers you'd come up with.

12 BY MR. BOGLE:
13 Q. No, I think I am
14 understanding what you're saying.

15 A. Okay.

16 Q. Looking at this PowerPoint
17 the DEA presented a month before the
18 sales in question in October of '05, the
19 DEA is saying, looking at percentages of
20 controlled versus noncontrolled, not
21 comparing the dollar values between the
22 two, right, that's what the slide deck
23 refers to here?

24 A. I understand that.

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1 MR. SCHMIDT: Objection.
2 THE WITNESS: But, when --
3 when the question of controls to
4 Rx was asked in that -- in that
5 time frame, it was in the context
6 of it being dollarized sales.

7 BY MR. BOGLE:
8 Q. That's what you guys were
9 looking at internally at McKesson, right?

10 A. Yes.

11 Q. But what I'm talking about
12 is what the DEA is conveying in
13 September 1, 2005, in this slide deck.

14 A. Okay.

15 Q. So what I'm talking about
16 and what we're looking at here is
17 percentages, right? We can agree that's
18 what this slide says, right?

19 A. Yes.

20 Q. Okay. And had McKesson, and
21 you specifically at the Lakeland
22 distribution center, looked at the
23 percentages of hydrocodone sales versus
24 overall sales to these seven pharmacies,

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1 there would have been a red flag that
2 would have popped up, right?

3 MR. SCHMIDT: Objection.
4 Characterization.

5 THE WITNESS: I still don't
6 think you understand what I'm
7 saying in terms of percentages on
8 a dollarized basis. You can look
9 at percentages of one to another
10 on a dosage unit basis or on a
11 dollars basis.

12 BY MR. BOGLE:
13 Q. But -- no, I think I do
14 understand what you're saying. But what
15 we talked about earlier is when opioids
16 specifically, hydrocodone and oxycodone,
17 many of them are generic, the dollar
18 values are going to be lower in
19 proportion to the quantities being
20 purchased, right?

21 A. Well, in that time frame, a
22 lot of them were not generics. And they
23 were relatively expensive to a lot of
24 generics that were being sold by us. So

<p style="text-align: right;">Page 178</p> <p>1 I'm not sure what the ratio would have 2 been, and it might surprise you the 3 differences on a dosage unit versus a 4 dollarized basis. 5 Q. Okay. Did you guys run any 6 calculations like that for these seven 7 pharmacies before you started supplying 8 them in October 2005? 9 A. I don't think we did. 10 Q. Okay. So let's look at what 11 the DEA put together as far as 12 percentages for some of these pharmacies. 13 I'm going to hand you what I'm marking as 14 Exhibit 13, also marked as 1.1952. 15 (Document marked for 16 identification as Exhibit 17 MCK-Mahoney-13.) 18 BY MR. BOGLE: 19 Q. This is another exhibit to 20 the Lakeland show cause proposed 21 proceeding from the DEA. You see it's 22 government Exhibit 4 here. 23 Do you see that on the first 24 page?</p>	<p style="text-align: right;">Page 180</p> <p>1 A. Okay. 2 Q. Okay. 3 A. Yeah. 4 Q. So other ARCOS drug meaning 5 other drugs the DEA monitors, right? 6 MR. SCHMIDT: Objection. 7 Foundation. 8 THE WITNESS: ARCOS would be 9 II's and some III's. 10 BY MR. BOGLE: 11 Q. Okay. Meaning they're 12 scheduled controlled substances, correct? 13 A. Not all scheduled. But 14 Schedule II and some III's. 15 Q. Okay. And so what the DEA 16 does here is just pulls out hydrocodone 17 versus the other Schedule II and III that 18 they monitor. And if you go to the 19 second page of this document, in that 20 analysis, for hydrocodone, for October 21 through January, Accumed has 1,110,900 22 doses of hydrocodone during that time 23 period from McKesson. 24 Do you see that?</p>
<p style="text-align: right;">Page 179</p> <p>1 A. On the first page? 2 Q. Yes, sir. 3 A. Okay, yeah. 4 Q. This says -- this is for 5 Accumed Pharmacy. Accumed ARCOS 6 purchases from McKesson. So you see this 7 is specific to McKesson. 8 A. Right. 9 Q. October 1, 2005, through 10 January 31, 2006, the same time frame 11 that we've been talking about, right? 12 A. Yes. 13 Q. And what they actually look 14 at here is the specific percentage of 15 hydrocodone versus other controls, right? 16 Do you see that measurement here? 17 A. I'm looking at the first 18 page? 19 Q. Yeah, the chart on the first 20 page. You see hydrocodone here, October, 21 November, December, January of '06. And 22 then that same time frame, other ARCOS 23 drug. 24 Do you see that?</p>	<p style="text-align: right;">Page 181</p> <p>1 A. Yes. 2 Q. Okay. And in looking at all 3 other drugs that the DEA monitors 4 combined during that same time period, 5 they come up with 47,630. 6 Do you see that? 7 A. Yes. 8 Q. Okay. So again, looking at 9 it even this way, just looking at 10 controlled substances, not even having to 11 look at all the drugs that are being 12 purchased, this is indicative of 13 diversion for hydrocodone, is it not? 14 MR. SCHMIDT: Objection. 15 Foundation. Characterization. 16 THE WITNESS: It's on one of 17 the flags that the DEA says in 18 terms of concentration, if you 19 will. 20 BY MR. BOGLE: 21 Q. Right. If you saw these 22 kind of numbers today, you would be 23 alarmed, would you not? 24 A. I would be concerned and</p>

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1 investigate, yes.
 2 Q. Right. And what this shows
 3 is this is what the numbers of doses of
 4 hydrocodone McKesson actually did ship to
 5 this pharmacy, right?
 6 A. Yes.
 7 Q. Okay. I'm going to hand you
 8 now what I'm marking as Exhibit 14. Also
 9 numbered as 1.1953.
 10 (Document marked for
 11 identification as Exhibit
 12 MCK-Mahoney-14.)
 13 BY MR. BOGLE:
 14 Q. You see this is a similar
 15 assessment involving Avee Pharmacy, which
 16 is one of the other seven we've been
 17 talking about.
 18 Do you see that?
 19 A. Yes.
 20 Q. Okay. And same sort of
 21 chart. This was Exhibit 5 to the DEA's
 22 submission.
 23 If you go to Page 2 here for
 24 Avee, it notes that during this time

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1 period of October to January of --
 2 October of '05 to January of '06 for
 3 hydrocodone, McKesson sold Avee Pharmacy
 4 1,754,800 doses.
 5 Do you see that?
 6 A. Yes.
 7 Q. Comparing that to all other
 8 drugs that the DEA monitors during that
 9 time frame is 19,870, right?
 10 A. Yes.
 11 Q. So you see these kind of
 12 numbers today, you're doing some serious
 13 investigation as to what's going on,
 14 right?
 15 MR. SCHMIDT: Object to
 16 characterization.
 17 THE WITNESS: Yes.
 18 BY MR. BOGLE:
 19 Q. Okay. But, again, what
 20 we're looking at here is actual sales
 21 that had already been made by McKesson to
 22 this pharmacy, right?
 23 A. Correct.
 24 MR. SCHMIDT: Same

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1 objection. Foundation.
 2 BY MR. BOGLE:
 3 Q. We'll look at one more of
 4 these for MediPharm Pharmacy.
 5 Exhibit 15, also marked as 1.1958.
 6 (Document marked for
 7 identification as Exhibit
 8 MCK-Mahoney-15.)
 9 BY MR. BOGLE:
 10 Q. Do you see again this is
 11 another similar chart to what we've been
 12 looking at, this time for MediPharm
 13 Pharmacy.
 14 Do you see that?
 15 A. Yes.
 16 Q. Noted to be Government
 17 Exhibit Number 10 to the proceeding. Do
 18 you see that stamp?
 19 A. Yes.
 20 Q. Okay. If you go to the
 21 second page of this one, the DEA does the
 22 same analysis. Looks at hydrocodone sold
 23 by McKesson to MediPharm, October of '05
 24 to January of '06. Comes up with

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1 1,250,300 doses during that time frame.
 2 Do you see that?
 3 A. Yes.
 4 Q. Okay. And they do again
 5 same comparison to other DEA monitored
 6 drugs, and during that same time frame,
 7 32,200 doses sold by McKesson for all
 8 other drugs being monitored by the DEA.
 9 Do you see that?
 10 A. Yes.
 11 Q. And these are similar to the
 12 numbers we saw from the other two
 13 pharmacies we just looked at, right?
 14 A. Yes.
 15 Q. And these seven pharmacies,
 16 they were all located in the State of
 17 Florida, right?
 18 A. Yes.
 19 Q. Okay. And they in fact were
 20 all rogue pharmacies, right?
 21 MR. SCHMIDT: Object to the
 22 characterization.
 23 THE WITNESS: I'm not sure
 24 if they were.

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1 BY MR. BOGLE:
 2 Q. You're not sure. Okay.
 3 Do you know how many of
 4 these pharmacies were subsequently shut
 5 down by the -- by the DEA?
 6 A. I don't.
 7 Q. I'm going to hand you what
 8 I'm marking as Exhibit 16. Also marked
 9 as 1.1970.
 10 (Document marked for
 11 identification as Exhibit
 12 MCK-Mahoney-16.)
 13 BY MR. BOGLE:
 14 Q. This is an article that I
 15 pulled off the internet from the Ledger
 16 titled "Pharmacy Raided by DEA Agents,"
 17 posted November 17, 2006.
 18 Do you see that?
 19 A. Yes.
 20 Q. Okay. And it says -- and
 21 from Lakeland, "A local pharmacy's
 22 license was suspended Thursday after it
 23 was raided by agents from the U.S. Drug
 24 Enforcement Administration."

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1 MR. SCHMIDT: Can I just
 2 have an ongoing, running objection
 3 to the questions on this document,
 4 this unauthenticated document?
 5 MR. BOGLE: Okay.
 6 BY MR. BOGLE:
 7 Q. "Federal agents, with help
 8 from local law enforcement agencies,
 9 seized several boxes of prescription
 10 drugs from Medcenter Pharmacy located
 11 at" -- and it provides the address in
 12 Lakeland. And it says, "Agents also
 13 raided a sister store at 4607 Clark
 14 Avenue in Tampa that operated under the
 15 name MediPharm-Rx, Inc."
 16 Do you see that?
 17 A. Yes.
 18 Q. And that's the same
 19 MediPharm that we've been talking about
 20 that was subject to the Lakeland show
 21 cause proceeding, right?
 22 A. Yes.
 23 Q. Okay. Were you aware of
 24 this, that they were raided in late 2006?

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1 A. I believe I was aware. Not
 2 specifically of the timing.
 3 Q. Okay. But you were aware
 4 they were raided at some point in time by
 5 the DEA?
 6 A. Yes.
 7 Q. And it says, "Both
 8 pharmacies are owned by a Robert L.
 9 Caddick, whose last known address was in
 10 Oviedo," also in Florida, right?
 11 A. Oviedo? Yeah.
 12 Q. And then it says, "Jeannette
 13 Moran, spokeswoman for the DEA's Miami
 14 field office, said that both pharmacies'
 15 licenses to sell controlled substances
 16 have been suspended." And then it goes
 17 on to say, "She said the DEA considers
 18 the operation as a whole to be an
 19 imminent danger to public health and
 20 safety."
 21 Do you see that reference?
 22 A. Yes.
 23 Q. And she says -- "She said
 24 agents pulled 635,000 doses of

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1 prescription medicines from the Tampa
 2 location. Most of those medicines were
 3 hydrocodone, sold as Vicodin, and
 4 alprazolam sold as Xanax."
 5 Do you see that?
 6 A. Yes.
 7 Q. So hydrocodone again is the
 8 very drug sold by McKesson to this
 9 pharmacy that we've been talking about as
 10 part of the Lakeland show cause
 11 proceedings, right?
 12 A. Yes.
 13 Q. Okay. The gentleman who
 14 owned these pharmacies, Mr. Caddick, had
 15 you ever met him?
 16 A. No, I don't believe so.
 17 Q. No? So when you went to the
 18 store, he wasn't somebody that you would
 19 have talked to?
 20 A. A lot of times the owners
 21 are not the pharmacists.
 22 Q. But the owners don't -- at
 23 these smaller pharmacies don't tend to
 24 show up and talk to you when you show up?

<p style="text-align: right;">Page 190</p> <p>1 A. Usually when I make a 2 pharmacy visit, I don't necessarily 3 announce that I'm going there. 4 Q. Okay. 5 A. I want to see what's going 6 on in the operation. 7 Q. Now, Mr. Caddick, were you 8 aware that he was ultimately arrested for 9 conspiracy to possess hydrocodone? 10 MR. SCHMIDT: Objection. 11 Foundation. 12 THE WITNESS: No, I wasn't 13 aware of that. 14 BY MR. BOGLE: 15 Q. Okay. I'm going to hand you 16 what I'm marking as 1.1969, also marked 17 as Exhibit 17. 18 (Document marked for 19 identification as Exhibit 20 MCK-Mahoney-17.) 21 MR. SCHMIDT: Same running 22 objection on the authenticity of 23 this. 24 MR. BOGLE: Okay.</p>	<p style="text-align: right;">Page 192</p> <p>1 opiate nearly equivalent to morphine for 2 pain relief." 3 And it's noted further on 4 down there that Mr. Caddick was the owner 5 registered agent of MediPharm-Rx. Do you 6 see that? It's a couple sentences down 7 from there. 8 A. I see it. Yes. 9 Q. Okay. This is not something 10 that you were aware of prior to today, 11 that he ultimately was arrested in 2008 12 for charges related to hydrocodone? 13 A. I don't think so. No. 14 Q. And we talked about the fact 15 that the DEA filed for an order to show 16 cause against Lakeland in 2006. We 17 talked about these seven pharmacies. But 18 a significant aspect of the reason why 19 they were seeking a suspension or 20 revocation of the Lakeland license was 21 the continued distribution of opioids by 22 the Lakeland distribution center even 23 after January 2006 in ways that were 24 indicative of diversion, right?</p>
<p style="text-align: right;">Page 191</p> <p>1 BY MR. BOGLE: 2 Q. You see this is an article 3 from the Tampa Tribune published 4 March 17, 2008. 5 Do you see that? 6 A. Yes. 7 Q. Okay. On the second page, 8 in the middle, I'll kind of point to it 9 if it helps you. It says, "The DEA also 10 arrested." 11 A. Okay. 12 Q. It says, "The DEA also 13 arrested two men tied to a Tampa pharmacy 14 the agency had targeted in 15 November 2006." That's the time frame we 16 just looked at, right, where they were 17 raided; is that right? 18 A. Yes. 19 Q. Okay. And it lists the 20 first person's name. The second name is 21 "Robert Caddick, 51, of 1007 Eagens 22 Creek, Oviedo, were arrested on federal 23 charges of conspiracy to possess with 24 intent to distribute hydrocodone, an</p>	<p style="text-align: right;">Page 193</p> <p>1 MR. SCHMIDT: Object to 2 characterization. 3 THE WITNESS: In the chart 4 that you showed me, there was a 5 dramatic falloff after November. 6 BY MR. BOGLE: 7 Q. So make sure I'm -- I'll 8 rephrase the question. We talked about 9 those seven pharmacies. 10 A. Okay. 11 Q. The DEA also raised concerns 12 of continued suspicious sales by McKesson 13 to other pharmacies from the Lakeland 14 distribution center after January 2006, 15 right? 16 A. Okay. 17 Q. Do you recall that? 18 MR. SCHMIDT: Object to the 19 characterization. 20 THE WITNESS: That was in 21 the order to show cause you're 22 saying? 23 BY MR. BOGLE: 24 Q. Yes, it was an aspect of the</p>

<p style="text-align: right;">Page 194</p> <p>1 order to show cause, yes. 2 A. Can I see it? 3 Q. Sure. We'll take a look at 4 it. So, yeah, I'll give you the number. 5 I'm going to guide you. So it should be 6 Exhibit 10. 7 A. 10. 8 Q. It's the biggest one. 9 A. Right. 10 MR. SCHMIDT: It's the big? 11 MR. BOGLE: The biggest 12 document. 1943. 13 MR. SCHMIDT: I just wanted 14 to get that on the record twice. 15 No, the second part. Go ahead. 16 I'm giving you a hard time. 17 MR. BOGLE: No problem. 18 It's easy to do. 19 BY MR. BOGLE: 20 Q. All right. So let's go to 21 Page 6444, on the Bates numbers on the 22 left. I think this will address what you 23 want to look at. 24 Okay. And this is some</p>	<p style="text-align: right;">Page 196</p> <p>1 still going on at the Lakeland 2 distribution center? 3 A. I wasn't aware of other 4 pharmacies that there were questions 5 about. 6 Q. Okay. Well, let's take a 7 look then, as this goes on. You see 8 under proposed testimony, the DEA has 9 actually listed you at the bottom of the 10 page. Do you see that? 11 A. Okay. 12 Q. So if you -- showed you 13 where that's at. Go to the next page 14 where your proposed testimony continues. 15 A. Mm-hmm. 16 Q. The last few sentences it 17 says there, "He will testify that after 18 McKesson" -- do you see that? I'm right 19 here. 20 A. Okay. Okay. 21 Q. This is talking about you. 22 "He will testify that after McKesson 23 received the order to show cause, that it 24 distributed a large amount of hydrocodone</p>
<p style="text-align: right;">Page 195</p> <p>1 additional proposed testimony from Joseph 2 Rannazzisi. Do you see that at the top? 3 A. Yes. 4 Q. Okay. And he was with the 5 DEA at the time, true? 6 A. Yes. 7 Q. Okay. And it says there, 8 below that, "Mr. Rannazzisi will testify 9 regarding his professional background and 10 experience and the following." And then 11 it lists five little areas he's going to 12 talk about, right? 13 A. Okay. 14 Q. Okay. So if you look at 15 Number 3, "But after the January 2006 16 meeting, McKesson continued to distribute 17 controlled substances under circumstances 18 that were indicative of diversion." 19 Do you see that? 20 A. Yes. 21 Q. Okay. Do you recall those 22 specific allegations being made by the 23 DEA that even after January 2006 there 24 were instances indicative of diversion</p>	<p style="text-align: right;">Page 197</p> <p>1 to YPM under suspicious circumstances." 2 Does that jog your memory 3 about the DEA having concerns about YPM 4 Pharmacy as well? 5 A. I remember the name YPM. 6 But I wasn't aware of this part of it. 7 Q. Okay. Well, it continues. 8 It says, "He will testify that he became 9 aware of DEA's suspension of a major 10 distributor in Central Florida in 11 April 2007." 12 Do you know what distributor 13 they are referring to there? 14 A. I can't recall at this 15 point. 16 Q. Okay. Then it says, 17 "Notwithstanding his knowledge" -- and 18 the his here is you, right, that's who 19 we're talking about? 20 A. Right, yeah. 21 Q. "McKesson supplied an 22 unusually large amount to hydrocodone to 23 Mai Pharmacy, M-A-I, in June and July of 24 2007 and later determined that McKesson</p>

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1 should no longer cell to Mai Pharmacy."
2 Do you remember Mai
3 Pharmacy?
4 A. I believe so.
5 Q. Okay. Do you recall that
6 being a pharmacy of concern for the DEA
7 around this time period as well?
8 A. I remember that they were
9 concerned about it.
10 Q. And do you recall the DEA
11 specifically talking to you in 2006 about
12 these two pharmacies, YPM and Mai?
13 A. No, I don't remember them
14 talking to me about it.
15 Q. Okay. Do you recall being
16 involved in additional meetings with the
17 DEA focused on YPM and Mai Pharmacy?
18 A. I'm sorry, say that again.
19 Q. Yeah. Do you recall being
20 involved in additional meetings with
21 members of the DEA regarding specifically
22 YPM and Mai Pharmacy around this time
23 frame?
24 A. 2007?

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1 Q. I believe that's right. Let
2 me get the date here. Yeah, 2007.
3 A. I don't remember meetings
4 with the DEA.
5 Q. Okay. I'm going to hand
6 you -- excuse me.
7 Let me hand you what I'm
8 marking as Exhibit 1.1997, also marked as
9 Exhibit 18.
10 (Document marked for
11 identification as Exhibit
12 MCK-Mahoney-18.)
13 MR. BOGLE: I think I only
14 have three of these instead of
15 four. I apologize for that.
16 BY MR. BOGLE:
17 Q. You see here this is an
18 e-mail from September 25 of '07 from
19 Latoya Jackson to Donald Walker. And
20 it's referenced DEA notes, do you see
21 that?
22 A. Yes.
23 Q. Okay. And the notes
24 actually start on the next page?

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1 A. And I wasn't here.
2 Q. I -- I just saw that. So I
3 recognize that you were not listed as a
4 participant.
5 A. Okay.
6 Q. Still -- still involves
7 Lakeland so I've got a couple of
8 questions as to what was conveyed to you.
9 A. I understand.
10 Q. But yes, I do acknowledge
11 that.
12 So this is a meeting from
13 September 19, 2007. Do you see that on
14 the second page?
15 A. Yes.
16 Q. And one of the participants,
17 first of all, was -- was Gary Boggs. Do
18 you see that?
19 A. Yes.
20 Q. It indicates that he was
21 actually with DEA at that point in time,
22 right?
23 A. Yes.
24 Q. And the two McKesson --

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1 well, one McKesson person was Donald
2 Walker and then your outside counsel was
3 also there, right?
4 A. Right.
5 Q. Okay. And under Letter A
6 there on that page it says, "DEA reviewed
7 their position on three areas that would
8 be critical in any settlement of Lakeland
9 show cause administrative action."
10 And then under Number 3 it
11 says suspension. Do you see that?
12 Bottom of the page?
13 A. Oh, oh, okay. Yes, sir.
14 Q. It says, "DEA is proposing a
15 suspension of license, specifically
16 suspension of shipping hydrocodone in the
17 Lakeland and Conroe DCs. This is based
18 on their view that there is an immediate
19 threat to safety. DEA identified
20 specific customers that subsequent to the
21 original six customers in Lakeland had
22 received large quantities of hydrocodone
23 from McKesson and those orders were not
24 for legitimate medical purposes."

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1 And then it lists the
2 Lakeland customers below that. Do you
3 see that?
4 Now I'll go through each of
5 them. I just want -- do you see where
6 that's referenced, Lakeland customers?
7 A. Yes.
8 Q. Okay. The first one is
9 customers of McKesson that received
10 orders from Southwood Pharmacy. Do you
11 see that?
12 A. Yeah. Southwood was not a
13 Lakeland customer.
14 Q. Okay. It's listed here as a
15 Lakeland customer in the letter, right?
16 Do you know whose customer
17 it was, let me ask you that?
18 A. I believe it's located in
19 California. Or was located in
20 California. But I'm not 100 percent
21 sure.
22 Q. Okay. Do you know which
23 McKesson distribution center serviced
24 Southwood, customers of Southwood?

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1 A. Which McKesson DC serviced
2 customers of Southwood.
3 Q. Right. It says customers of
4 McKesson that received orders from
5 Southwood Pharmacy. That's the
6 reference. So you said you didn't think
7 that was a Lakeland customer. So my
8 question is, whose customer was it during
9 that time frame, at McKesson?
10 MR. SCHMIDT: Objection.
11 THE WITNESS: I'm confused
12 by this here.
13 BY MR. BOGLE:
14 Q. Okay. My question is which
15 distribution center did service Southwood
16 Pharmacy, if not Lakeland?
17 MR. SCHMIDT: Objection.
18 Foundation.
19 THE WITNESS: I -- I don't
20 know.
21 BY MR. BOGLE:
22 Q. Okay. Well, let's take a
23 look at the other ones referenced here.
24 The next one is YPM Pharmacy. We just

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1 talked about that, right?
2 A. Right.
3 Q. Okay. And that was
4 certainly a Lakeland customer, right?
5 A. Yes.
6 Q. And then Mai Pharmacy also a
7 Lakeland customer, right?
8 A. Yes.
9 Q. Okay. So you do see here
10 that certainly an aspect of the reason
11 why the DEA was seeking a suspension of
12 the license of Lakeland was not just the
13 seven pharmacies we looked at earlier,
14 but also at the very least YPM and Mai
15 Pharmacy that Lakeland was also servicing
16 after January 2006, true?
17 MR. SCHMIDT: Objection.
18 Foundation.
19 THE WITNESS: Can you say
20 that again, please?
21 BY MR. BOGLE:
22 Q. Sure.
23 That based on this document,
24 and what we saw from the order to show

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1 cause that we just looked at --
2 A. Right.
3 Q. -- a component of the reason
4 why the FDA was -- excuse me, why the DEA
5 was seeking a suspension of the Lakeland
6 registration was not only the seven
7 internet pharmacies that we talked about
8 earlier, but also at the very least these
9 two additional customers that were being
10 serviced after January 2000 --
11 A. Okay. I see that. Yes.
12 Q. -- true? Okay.
13 And we talked a couple times
14 about Mr. Boggs. And we actually looked
15 at a PowerPoint of his earlier. I want
16 to go back to it. It's Exhibit 3. It's
17 the one, state of prescription drug abuse
18 on the front.
19 Okay. And I think I asked
20 you a few minutes ago whether you were
21 aware that the seven pharmacies subject
22 to the Lakeland show cause proceeding
23 were in fact rogue internet pharmacies.
24 I think your answer was you were not

<p style="text-align: right;">Page 206</p> <p>1 aware one way or another. Is that true?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Let's take a look at</p> <p>4 what Mr. Boggs discusses along those</p> <p>5 lines in this deck. It's on Page .15.</p> <p>6 So he says here, the slide</p> <p>7 is titled "Purchases of Hydrocodone By</p> <p>8 Known Or Suspected Rogue Internet</p> <p>9 Pharmacies, 2006."</p> <p>10 And the first pharmacy</p> <p>11 MediPharm-Rx, that was one of the seven</p> <p>12 that we talked about in the show cause</p> <p>13 proceeding, right?</p> <p>14 A. Right.</p> <p>15 Q. That's ranked Number 1 on</p> <p>16 his list, 15 million-plus dosage units.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Number 2, Avee Pharmacy,</p> <p>20 also on the Lakeland show cause list,</p> <p>21 true?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And Number 3, Accumed</p> <p>24 Rx, also on the Lakeland show cause list,</p>	<p style="text-align: right;">Page 208</p> <p>1 pharmacies, plus the two additional ones</p> <p>2 just in the last few minutes and the</p> <p>3 supply of hydrocodone to these</p> <p>4 pharmacies.</p> <p>5 And you know that the</p> <p>6 consequences of supplying such high</p> <p>7 amounts of hydrocodone to pharmacies is</p> <p>8 that people get addicted to these drugs</p> <p>9 and people die, right?</p> <p>10 MR. SCHMIDT: Objection.</p> <p>11 Speculation.</p> <p>12 THE WITNESS: I -- I don't</p> <p>13 know if that happens in all cases.</p> <p>14 BY MR. BOGLE:</p> <p>15 Q. I didn't say all cases. I</p> <p>16 said that is a consequence of that kind</p> <p>17 of conduct, right?</p> <p>18 MR. SCHMIDT: Same</p> <p>19 objection. Speculation.</p> <p>20 THE WITNESS: I guess it can</p> <p>21 happen.</p> <p>22 BY MR. BOGLE:</p> <p>23 Q. I'm sorry?</p> <p>24 A. I guess it can happen.</p>
<p style="text-align: right;">Page 207</p> <p>1 right?</p> <p>2 A. Yes.</p> <p>3 Q. Number 7, Universal Rx, also</p> <p>4 on the Lakeland show cause list, right?</p> <p>5 A. Yes.</p> <p>6 Q. Number 9, United</p> <p>7 Prescription Services, also on the</p> <p>8 Lakeland show cause list, right?</p> <p>9 A. Yes.</p> <p>10 Q. Number 19, Bi-Wise Drugs,</p> <p>11 also on the Lakeland show cause list,</p> <p>12 right?</p> <p>13 A. Yes.</p> <p>14 Q. Number 32, Trelles Pharmacy,</p> <p>15 that was also one of the seven subject to</p> <p>16 the Lakeland show cause, right?</p> <p>17 A. Yes.</p> <p>18 Q. And then Number 23 is YPM,</p> <p>19 which is one of the two pharmacies that</p> <p>20 we just talked about that McKesson</p> <p>21 serviced post-January 2006, right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And we talked about</p> <p>24 these -- initially these seven</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. All right. And specifically</p> <p>2 if we go back into Mr. Boggs' deck here,</p> <p>3 Page .19. We talked about this earlier,</p> <p>4 where he's -- literally, this is a photo</p> <p>5 of body bags, dead people in body bags,</p> <p>6 right?</p> <p>7 A. Where are they from?</p> <p>8 Q. Presumably Florida, because</p> <p>9 the title -- the slide says, "Oxycodone</p> <p>10 deaths in Florida rose from 340 in 2005</p> <p>11 to 1516 in 2010, a 346 percent increase."</p> <p>12 Do you see that?</p> <p>13 MR. SCHMIDT: I'll object to</p> <p>14 the speculation.</p> <p>15 THE WITNESS: I see what it</p> <p>16 says. But I doubt that these are</p> <p>17 body bags related to --</p> <p>18 BY MR. BOGLE:</p> <p>19 Q. Certainly that's the point</p> <p>20 that he's trying to make --</p> <p>21 A. I understand that.</p> <p>22 Q. -- is what happened in</p> <p>23 Florida results in deaths, right? That's</p> <p>24 what he's clearly trying to convey here,</p>

<p style="text-align: right;">Page 210</p> <p>1 right?</p> <p>2 A. It's a stock photo, right?</p> <p>3 Q. I don't know.</p> <p>4 A. Okay. I understand what</p> <p>5 you're saying.</p> <p>6 Q. But that's the message that</p> <p>7 he's trying to convey here, right?</p> <p>8 MR. SCHMIDT: Objection.</p> <p>9 Vague.</p> <p>10 THE WITNESS: We do take it</p> <p>11 seriously.</p> <p>12 BY MR. BOGLE:</p> <p>13 Q. That's not my question, sir.</p> <p>14 That's the message that he's trying --</p> <p>15 that's what you understand this to mean,</p> <p>16 right?</p> <p>17 MR. SCHMIDT: Same</p> <p>18 objection. Vague.</p> <p>19 BY MR. BOGLE:</p> <p>20 Q. Is that the oxycodone deaths</p> <p>21 in Florida went up substantially from '05</p> <p>22 to 2010, right? That's what he's trying</p> <p>23 to convey here?</p> <p>24 A. Yes. I agree.</p>	<p style="text-align: right;">Page 212</p> <p>1 2006 and 2007, fall right square in the</p> <p>2 middle of this graph where opioid deaths</p> <p>3 are increasing substantially, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Ultimately McKesson</p> <p>6 reached a settlement with the DEA</p> <p>7 regarding the Lakeland show cause</p> <p>8 proceedings, right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And you are aware</p> <p>11 that settlement occurred in 2008, true?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And as part of that</p> <p>14 settlement, McKesson agreed to multiple</p> <p>15 things, but one was to pay a fine of</p> <p>16 \$13,250,000, right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And in fairness to</p> <p>19 the Lakeland distribution center, it was</p> <p>20 for conduct not just involving Lakeland</p> <p>21 but involving other distribution centers</p> <p>22 too, right?</p> <p>23 A. Correct.</p> <p>24 Q. I'm sorry?</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. All right. And beyond just</p> <p>2 oxycodone, he also talks about opioid</p> <p>3 overdose deaths generally and their</p> <p>4 increase over time. If we can go to Page</p> <p>5 .7.</p> <p>6 You see here this chart</p> <p>7 shows the line at the top, "Opioid sales</p> <p>8 from '99 to 2010."</p> <p>9 Do you see that, that line?</p> <p>10 A. The top one?</p> <p>11 Q. The top one. Do you see</p> <p>12 that?</p> <p>13 A. Mm-hmm.</p> <p>14 Q. Okay. And that, you would</p> <p>15 agree with me, from '99 to 2010, opioid</p> <p>16 sales continue to rise, right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And so do opioid</p> <p>19 deaths, right, the middle line?</p> <p>20 A. Okay.</p> <p>21 Q. Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And again, the time frame</p> <p>24 that we've been talking about, '05 and</p>	<p style="text-align: right;">Page 213</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Have you seen the</p> <p>3 settlement agreement from the 2008</p> <p>4 settlement?</p> <p>5 A. Yes.</p> <p>6 Q. You have? Okay.</p> <p>7 I want to take a look at a</p> <p>8 couple aspects of that with you here.</p> <p>9 I'll hand you what I'm</p> <p>10 marking as Exhibit 19, also marked as</p> <p>11 Exhibit 1.889.</p> <p>12 (Document marked for</p> <p>13 identification as Exhibit</p> <p>14 MCK-Mahoney-19.)</p> <p>15 BY MR. BOGLE:</p> <p>16 Q. This is titled "Settlement</p> <p>17 and Release Agreement and Administrative</p> <p>18 Memorandum of Agreement" dated, on the</p> <p>19 first page, 2nd day of May, 2008.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So this is a document</p> <p>23 that you've seen before, true?</p> <p>24 A. I believe so.</p>

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1 Q. Okay. Do you want to -- if
2 you want to look at something first, just
3 let me know.
4 A. Yeah, let me just take a --
5 Q. Yeah, go ahead. Just let me
6 know when you're ready.
7 A. Okay.
8 Q. Are you familiar with this
9 document?
10 A. Yes.
11 Q. And so just to sort of
12 orient ourselves here. Under the
13 background section, first paragraph says,
14 "Whereas, on August 4, 2006, DEA by its
15 deputy assistant administrator Joseph T.
16 Rannazzisi issued an order to show cause,
17 Order Number 1, to McKesson with respect
18 to its Lakeland distribution center," and
19 then it lists the address.
20 Do you see that?
21 A. Right.
22 Q. Okay. And that's the order
23 to show cause that we've been talking for
24 the last hour and a half or so, right?

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1 A. Yes.
2 Q. Okay. So then if we can
3 take a look at Bates page ending 1052, do
4 you see that toward the top, there's a
5 little H?
6 A. Yes.
7 Q. It says, "McKesson agrees to
8 pay civil penalties to the United States
9 of America under 21 U.S.C. 842(c) for
10 violations of 21 U.S.C. 842-A(5) in the
11 amount of \$13,250,000 in settlement of
12 claims or potential claims made by the
13 United States of America for failing to
14 report suspicious orders of controlled
15 substance and for failing to report
16 thefts or significant losses of
17 controlled substances."
18 Do you see that?
19 A. Yes.
20 Q. Okay. You have a general
21 understanding that that's why -- those
22 are the reasons why the fine was incurred
23 by McKesson, right?
24 A. Yes.

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1 MR. SCHMIDT: Object to the
2 characterization.
3 BY MR. BOGLE:
4 Q. And then if you go back to
5 Page 1060, you see there's a section
6 towards the middle of the page, it says,
7 "The covered conduct shall mean the
8 following alleged conduct."
9 Do you see that?
10 A. Yes.
11 Q. And first of all, I don't
12 want to go through all six of them. You
13 would acknowledge there are six different
14 sections here talking about six different
15 distribution centers at McKesson, true?
16 MR. SCHMIDT: I'm sorry.
17 What page are you on?
18 MR. BOGLE: Yeah, 1060
19 carrying over to 1061.
20 MR. SCHMIDT: Thank you.
21 BY MR. BOGLE:
22 Q. My question was simply that
23 six distribution centers are covered here
24 in the covered conduct section?

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1 A. Yes.
2 Q. Okay. So I want to focus
3 the one that we've been talking about,
4 which is Lakeland. So that's letter B.
5 A. Mm-hmm.
6 Q. So it says, "In
7 October 2005, McKesson-Lakeland sold
8 approximately 2.1 million dosage units of
9 hydrocodone to seven pharmacies in the
10 Tampa area." And then it lists them out.
11 Do you see that?
12 A. Yes.
13 Q. Those are same seven this
14 we've been talking about, true?
15 A. Right.
16 Q. Okay. "And failed to report
17 these sales as suspicious orders to the
18 DEA when discovered as required by and is
19 a violation of 21 C.F.R. 1301.74(b) and
20 21 U.S.C. Section 842-A(5)."
21 Do you see that?
22 A. Yes.
23 Q. Okay. And this is a portion
24 of the settlement agreement that you're

<p style="text-align: right;">Page 218</p> <p>1 familiar with too, right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And this fine of</p> <p>4 \$13,250,000, more than half of that was</p> <p>5 related to the conduct at Lakeland,</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. And specifically, Page 1062,</p> <p>9 I think, outlines the numbers.</p> <p>10 So under terms and</p> <p>11 conditions, Letter B, it says, "McKesson</p> <p>12 shall pay the sum of \$7,456,000. Payment</p> <p>13 shall be made by electronic funds." And</p> <p>14 it goes on. And that's related to the</p> <p>15 conduct at Lakeland, right, the</p> <p>16 \$7,456,000 fine, right?</p> <p>17 A. Yes.</p> <p>18 Q. Which we can agree is more</p> <p>19 than half of the overall fine, right?</p> <p>20 A. Yes.</p> <p>21 Q. Also the highest fine</p> <p>22 allocated to any specific distribution</p> <p>23 center, right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 220</p> <p>1 MCK-Mahoney-20.)</p> <p>2 BY MR. BOGLE:</p> <p>3 Q. We'll start with the e-mail.</p> <p>4 There's attached notes. But we'll start</p> <p>5 with the e-mail.</p> <p>6 It's from Michael Oriente,</p> <p>7 March 7, 2008, to Donald Walker. And</p> <p>8 then there is this PGRDRC e-mail.</p> <p>9 What -- do you know what that is?</p> <p>10 A. That was a distribution</p> <p>11 center list.</p> <p>12 Q. Okay. Were you included on</p> <p>13 that?</p> <p>14 A. I am a part of it. Yes.</p> <p>15 Q. All right. And it</p> <p>16 references a regulatory meeting March 5th</p> <p>17 and March 6th. Do you see that? It's in</p> <p>18 the subject line.</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And he says, "Team,</p> <p>21 here are the notes from our meeting." I</p> <p>22 want to take a look at the notes. First</p> <p>23 of all, the next page there's a list of</p> <p>24 attendees. Do you see that there?</p>
<p style="text-align: right;">Page 219</p> <p>1 Q. And there was also a</p> <p>2 temporary suspension of Lakeland's</p> <p>3 controlled substance registration that</p> <p>4 was part of the settlement agreement too,</p> <p>5 right?</p> <p>6 A. Related to specific base</p> <p>7 codes.</p> <p>8 Q. You're right. So any sort</p> <p>9 of hydrocodone or combination products,</p> <p>10 and alprazolam?</p> <p>11 A. Yes.</p> <p>12 Q. Right? Okay.</p> <p>13 And you recall during this</p> <p>14 2008 time frame there being discussions,</p> <p>15 that I believe you were party to, that</p> <p>16 the fines McKesson paid here in 2008</p> <p>17 could have been much higher, right? Do</p> <p>18 you recall that discussion?</p> <p>19 A. I don't recall that.</p> <p>20 Q. Okay. Let me hand you what</p> <p>21 I'm marking as Exhibit 20, also marked as</p> <p>22 1.1950.</p> <p>23 (Document marked for</p> <p>24 identification as Exhibit</p>	<p style="text-align: right;">Page 221</p> <p>1 A. Yes.</p> <p>2 Q. And you are one of the</p> <p>3 attendees listed, right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Do you recall this</p> <p>6 meeting?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. It appears it</p> <p>9 occurred in Carrollton. Is that in Texas?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And if you look here</p> <p>12 on the first page of the notes, the</p> <p>13 second bullet point says, "Memorandum of</p> <p>14 agreement."</p> <p>15 Do you see that?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. Okay. Is that a yes?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And it lists the</p> <p>20 covered conduct three points below that.</p> <p>21 Do you see that?</p> <p>22 A. Okay.</p> <p>23 Q. Few bullet points down?</p> <p>24 A. Yes.</p>

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1 Q. So the covered comments, and
2 this is talking about the -- the 2008
3 settlement agreement, right?
4 A. I believe so.
5 Q. Okay. And the first bullet
6 point under covered conduct three points
7 says, "Failure to maintain adequate
8 controls against diversion."
9 Do you see that?
10 A. Okay. Yes.
11 Q. And then the third bullet
12 point says, "Failure to detect and report
13 suspicious orders of controlled
14 substances."
15 Do you see that as well?
16 A. Yes.
17 Q. Okay. And we just talked
18 about from the memorandum of agreement,
19 those are two of the reasons listed as to
20 why the DEA said the agreement was being
21 entered into, right?
22 A. Yes.
23 Q. Okay. And so then if you go
24 to the next page, Bates ending 5050.

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1 Middle of the page it lists civil
2 penalties. Do you see that section?
3 A. Yes.
4 Q. Okay. And it says
5 13.25 million, which we talked about,
6 that was the ultimate amount, right?
7 A. Yes.
8 Q. And then it notes, "Fine
9 could have been as high as 46 million."
10 Do you see that?
11 A. Yes.
12 Q. Okay. Do you recall that
13 discussion, that there was a potential
14 for the fine to be as high as
15 \$46 million?
16 A. Perhaps. I don't remember
17 that number specifically, but I trust
18 that it was discussed.
19 Q. Okay. All right. And then
20 it references six DCs involved, one of
21 which is Lakeland, right?
22 A. Mm-hmm.
23 Q. True?
24 A. Yes.

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1 Q. Okay. And then below that
2 it says, "Factors influencing DEA civil
3 penalty."
4 Do you see that section?
5 A. Yes.
6 Q. Okay. There it says, "There
7 were many factors influencing the
8 decision. It involved multiple DCs,
9 estimated to be over 4,600 violations.
10 DEA looked at multiple time periods.
11 Shipments to pharmacies that turned out
12 to be internet pharmacies. Shipping
13 millions of dosages to a couple of
14 pharmacies that later were indicted."
15 Do you see that?
16 A. Yes.
17 Q. Okay. And do you recall the
18 specific discussion about the DEA
19 estimating they found more than 4600
20 violations of these distribution centers?
21 A. Yes.
22 Q. That's a lot of violations,
23 right, we can agree on that?
24 MR. SCHMIDT: Objection.

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1 Foundation.
2 THE WITNESS: I think that
3 they -- the include some
4 reductions that we had thought
5 would -- were aligned with what
6 the DEA was expecting back in the
7 time frame when we reduced the
8 shipments to those pharmacies
9 dramatically to those lower
10 levels.
11 BY MR. BOGLE:
12 Q. Okay. Including the one
13 where they were reduced for seven days
14 and then these group of seven had their
15 allotments increased seven days later, up
16 to about I think 60,000 doses a month for
17 hydrocodone, right?
18 MR. SCHMIDT: Object to the
19 characterization.
20 THE WITNESS: Well, I
21 believe that Don -- Don was in
22 conversation with the DEA when he
23 was assessing these reactions I
24 believe.

<p style="text-align: right;">Page 226</p> <p>1 BY MR. BOGLE:</p> <p>2 Q. Okay. So is it your</p> <p>3 testimony that the DEA specifically</p> <p>4 approved of an allotment of 60,000 doses</p> <p>5 of hydrocodone for those pharmacies?</p> <p>6 A. I wasn't privy to it. And</p> <p>7 I'm not saying that that's what happened.</p> <p>8 Q. Okay. But you recall us</p> <p>9 reading, as part of the show cause</p> <p>10 document, that there was initially a</p> <p>11 reduction --</p> <p>12 A. Yes.</p> <p>13 Q. -- and that lasted for seven</p> <p>14 days and it was bumped back up to 60,000</p> <p>15 doses a month.</p> <p>16 MR. SCHMIDT: Object to the</p> <p>17 characterization.</p> <p>18 BY MR. BOGLE:</p> <p>19 Q. Do you recall that?</p> <p>20 A. It was 300 per day, and then</p> <p>21 2,000 per day.</p> <p>22 Q. Right. And I'm just -- I'm</p> <p>23 breaking that down by month.</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 228</p> <p>1 order." Towards the top of the page, do</p> <p>2 you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. It says, "Our</p> <p>5 documentation of must be in order."</p> <p>6 And then it's bolded,</p> <p>7 capped, and underlined. "We cannot have</p> <p>8 a repeat occurrence."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And ultimately there</p> <p>12 was a repeat occurrence, right, as far as</p> <p>13 an additional settlement that was entered</p> <p>14 into between McKesson and the DEA for</p> <p>15 additional violations of the Controlled</p> <p>16 Substances Act in 2017, right?</p> <p>17 MR. SCHMIDT: Object to the</p> <p>18 characterization.</p> <p>19 THE WITNESS: There was</p> <p>20 another settlement.</p> <p>21 BY MR. BOGLE:</p> <p>22 Q. Right. And with it saying</p> <p>23 we cannot have a repeat occurrence,</p> <p>24 that's what they are talking about,</p>
<p style="text-align: right;">Page 227</p> <p>1 Q. Okay. So it went from 9,000</p> <p>2 a month to 60,000 a month in a matter of</p> <p>3 a week after some completion of a</p> <p>4 questionnaire, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So going back to my</p> <p>7 initial question. Over 4600 violations,</p> <p>8 I mean, we can agree that's a lot of</p> <p>9 violations, right?</p> <p>10 MR. SCHMIDT: Objection.</p> <p>11 Characterization.</p> <p>12 THE WITNESS: I don't know</p> <p>13 how they were distributed or what</p> <p>14 they were for.</p> <p>15 BY MR. BOGLE:</p> <p>16 Q. Okay. Do you know how many</p> <p>17 were for Lakeland specifically, how many</p> <p>18 violations they found?</p> <p>19 A. I don't.</p> <p>20 Q. And last thing I want to</p> <p>21 look at here is on the next page, Bates</p> <p>22 ending 5051.</p> <p>23 And I'm looking at where it</p> <p>24 says, "Our documentation of must be in</p>	<p style="text-align: right;">Page 229</p> <p>1 right, what you guys are talking about?</p> <p>2 MR. SCHMIDT: Object to the</p> <p>3 characterization.</p> <p>4 THE WITNESS: I believe so.</p> <p>5 BY MR. BOGLE:</p> <p>6 Q. Okay.</p> <p>7 MR. BOGLE: I'm actually</p> <p>8 switching to a whole other topic</p> <p>9 area. This might be a decent time</p> <p>10 to break for lunch if you guys are</p> <p>11 okay with it.</p> <p>12 MR. SCHMIDT: Sure.</p> <p>13 How much time have we been</p> <p>14 on the record for?</p> <p>15 THE VIDEOGRAPHER: Sure.</p> <p>16 We've used up 2 hours 58 minutes.</p> <p>17 The time is 12:42 p.m.</p> <p>18 Going off the record.</p> <p>19 - - -</p> <p>20 (Lunch break.)</p> <p>21 - - -</p> <p>22 THE VIDEOGRAPHER: We are</p> <p>23 back on record. The time is</p> <p>24 1:40 p.m.</p>

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1 - - -
2 A F T E R N O O N S E S S I O N
3 - - -
4 E X A M I N A T I O N (Cont'd.)
5 - - -
6 BY MR. BOGLE:
7 Q. Okay. Mr. Mahoney, we are
8 back from lunch. I wanted to shift gears
9 a little bit to another topic. We talked
10 about earlier in the deposition that you
11 became the director of regulatory affairs
12 in January 2008, true?
13 A. Yes.
14 Q. Okay. And that's around the
15 same period of time that McKesson and DEA
16 are trying to work out the issues
17 regarding the Lakeland show cause issues,
18 right?
19 A. Yes.
20 Q. Okay. And was that a
21 promotion for you to move from
22 distribution manager to director of
23 regulatory affairs?
24 A. It was a lateral move.

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1 Q. Lateral move. Okay. Was
2 there any increase in pay associated with
3 it?
4 A. I don't believe so.
5 Q. Okay. And the regulatory
6 department at McKesson before you moved
7 into the director of regulatory affairs
8 role in 2008 was a small department
9 right?
10 A. Yes.
11 MR. SCHMIDT: Object to the
12 characterization.
13 BY MR. BOGLE:
14 Q. Three people?
15 A. It was --
16 MR. SCHMIDT: Go ahead. I
17 cut off your question. You might
18 want to --
19 MR. BOGLE: Yeah, let me
20 re-ask the question.
21 BY MR. BOGLE:
22 Q. So the first question was,
23 before you got there in January 2008, the
24 regulatory affairs department at McKesson

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1 was a small department, true?
2 MR. SCHMIDT: And that's
3 where I object to the
4 characterization.
5 THE WITNESS: There were
6 several people in it.
7 BY MR. BOGLE:
8 Q. Okay. Based on my count
9 there were three, right?
10 A. I'm not sure.
11 Q. Don Walker, Bruce Russell,
12 and Gary Hilliard, true?
13 A. Okay.
14 Q. Are you aware of any other
15 people working in the regulatory --
16 regulatory department at McKesson prior
17 to January 2008?
18 A. I don't have recollection
19 specifically of the department before I
20 joined it.
21 Q. Okay. So when you did join
22 in January 2008, were there other people
23 that came onto the regulatory department
24 at that same time?

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1 A. Yes.
2 Q. Who else?
3 A. Michael Oriente, Tony -- or
4 Tracy Jonas, and Dave Gustin.
5 Q. All of you guys came on as
6 the same title, director of regulatory
7 affairs, right?
8 A. Yes.
9 Q. Okay. I'm going to hand you
10 what's being marked as Exhibit 1.1675,
11 also marked as Exhibit 21.
12 (Document marked for
13 identification as Exhibit
14 MCK-Mahoney-21.)
15 BY MR. BOGLE:
16 Q. Okay. So to orient you to
17 the document first, and we'll go from
18 there. The first page is titled
19 "Presentation to the U.S. Attorney's
20 Office, Northern District of West
21 Virginia, and DEA, March 12, 2014."
22 Do you see that?
23 A. Yes.
24 Q. And on top of that, it says

<p style="text-align: right;">Page 234</p> <p>1 McKesson Corporation. 2 Do you see that? 3 A. Right. 4 Q. Okay. And if you look here, 5 on Page .7 of the document. 6 A. Okay. 7 Q. You see here, this slide is 8 titled "McKesson's Regulatory Affairs 9 Team Presettlement Discussions." 10 MR. SCHMIDT: Sorry. Go 11 ahead. 12 BY MR. BOGLE: 13 Q. You see there are three 14 people listed there: Don Walker, Bruce 15 Russell, and Gary Hilliard. True? 16 A. Yeah. 17 MR. SCHMIDT: Can I say 18 given the header on this, I don't 19 know how -- I think this has been 20 used in prior depositions. 21 MR. BOGLE: I think it has. 22 MR. SCHMIDT: I don't know 23 how we've been using it. I'm just 24 going to make an objection and</p>	<p style="text-align: right;">Page 236</p> <p>1 page of the slide deck, Page .8. You see 2 here it's sort of walking through the 3 chronology in time. And here it says, 4 "McKesson regulatory affairs team, 2007 5 to 2012," and there are more people than 6 the three that we previously referenced, 7 right? 8 A. I see. 9 Q. Including many of the names 10 that you just gave me? 11 A. Right. 12 Q. Okay. Looking at these two 13 slides together. This would indicate, 14 would it not, that prior to this 2007 15 time period that the three people in the 16 regulatory affairs team were the three we 17 talked about, Don Walker, Bruce Russell, 18 Gary Hilliard, right? 19 A. Yes. 20 Q. Okay. And you were part of 21 this team that's discussed on .8 that was 22 added in late 2007 or early 2008, right? 23 A. Right. 24 Q. Okay. And these additional</p>
<p style="text-align: right;">Page 235</p> <p>1 I'll ask it be a running objection 2 given that this was prepared for 3 settlement purposes. I don't know 4 that we've sorted that issue out. 5 I think we can sort it out later. 6 If I could make a running 7 objection on that. 8 MR. BOGLE: That's fine. 9 BY MR. BOGLE: 10 Q. Let me get back to the 11 question and make sure we are on the same 12 page. So this is noted presettlement 13 discussions. These are the three people 14 in the regulatory affairs team, right? 15 That's what the slide indicates, true? 16 A. I see that it says that. It 17 seems -- it confused me based on the 18 dating of March 12, 2014. 19 Q. I'm going to walk you to a 20 place that I don't think is going to be 21 confusing. So I have to kind of set the 22 table here. 23 A. Sure. 24 Q. So if you go to the next</p>	<p style="text-align: right;">Page 237</p> <p>1 people, including yourself, were being 2 added to meet the requirements of -- to 3 better meet the requirements of the 4 Controlled Substance Act, correct? 5 A. I believe so. 6 Q. And in fact, as well it was 7 outlined in the 2008 settlement 8 agreement, specific parameters McKesson 9 had to meet going forward as far as due 10 diligence went, right? 11 A. Yes. 12 Q. Okay. And part of the 13 reason why people -- these people were 14 brought on, including you, was to attempt 15 to meet the requirements of the 16 settlement agreement and the Controlled 17 Substance Act, right? 18 A. Yes. 19 Q. Okay. After you were 20 brought on in late 2007, early 2008, a 21 few months thereafter, the controlled 22 substance monitoring program was 23 finalized. Does that sound accurate 24 timewise to you?</p>

<p style="text-align: right;">Page 238</p> <p>1 A. Can you say that again, 2 please? 3 Q. Sure. A few months after 4 you were added onto the regulatory 5 affairs team, the controlled substance 6 monitoring program was finalized, true? 7 A. I'd say it was initiated. 8 But yeah. 9 Q. That's a fair clarification. 10 So in and around mid-2008, the controlled 11 substances monitoring program was 12 launched at McKesson, right? 13 A. Yes. 14 Q. Okay. And you're familiar 15 with that program, right? 16 A. Yes. 17 Q. Okay. The fact that you've 18 had responsibilities for complying with 19 the provisions of the controlled 20 substance monitoring program since it was 21 launched in 2008, right? 22 A. Yes. 23 Q. At least for the customers 24 you are responsible for, true?</p>	<p style="text-align: right;">Page 240</p> <p>1 CSMP was launched in 2008, do you recall 2 there being some confusion within people 3 at McKesson as to how to actually comply 4 with the CSMP itself? 5 MR. SCHMIDT: Object to 6 characterization. 7 THE WITNESS: I think the 8 CSMP was outlined and how it -- 9 how it worked in practice was 10 something that we were all getting 11 used to. 12 BY MR. BOGLE: 13 Q. Okay. I'm going to hand you 14 what I'm marking as 1.1960, also 15 Exhibit 22 to your deposition. 16 (Document marked for 17 identification as Exhibit 18 MCK-Mahoney-22.) 19 BY MR. BOGLE: 20 Q. Okay. This is a string of 21 e-mails, we're going to start at the 22 bottom. And actually I think it's all 23 pretty much on the first page. 24 A. Okay.</p>
<p style="text-align: right;">Page 239</p> <p>1 A. Yes. 2 Q. And that was actually -- the 3 controlled substance monitoring program 4 was drafted to replace the lifestyle drug 5 monitoring program which had been in 6 place previously, right? 7 A. Yes. 8 Q. And you are generally 9 familiar with that program too, right? 10 A. Yes. 11 Q. Okay. Now, the -- we'll 12 call it the CSMP. You understand what 13 that means? 14 A. Yes. 15 Q. Controlled substances 16 monitoring program. That wasn't created 17 because there was any change in the 18 Controlled Substances Act, right? 19 A. No. 20 Q. It was -- it was created as 21 part of the 2008 settlement agreement, 22 right? 23 A. Yes. 24 Q. And after the program, the</p>	<p style="text-align: right;">Page 241</p> <p>1 Q. Just a telephone number on 2 the second page. So I'm looking at the 3 bottom e-mail on the first page. It's an 4 mile from Steve Miller to Donald Walker. 5 And you are one of the people cc'd. Do 6 you see that? 7 A. Yes. 8 Q. Okay. And this was sent 9 June 12, 2008, do you see that date? 10 A. Yes. 11 Q. Okay. Steve Miller is noted 12 to be VPDO of the south region. Do you 13 know what VPDO stands for? 14 A. Yes. 15 Q. What does that stand for? 16 A. Vice president distribution 17 operations. 18 Q. Okay. Would that be sort of 19 one step below Don Walker on the 20 hierarchy at McKesson on the operation 21 side? 22 A. He -- he reported to Don. 23 Q. Okay. And he was VPDO for 24 the south region which was the same</p>

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1 region you had regulatory responsibility
2 for during this time, right?
3 A. Yes.
4 Q. Okay. So in this e-mail
5 Mr. Miller says, "I would like to discuss
6 further CSMP. We are not aligned as to
7 what documentation/responsibility we need
8 in each DC. I am very concerned as we
9 can expect DEA to visit to check out our
10 processes, and in listening to the
11 DOOs/DCMs, we are very unclear as to the
12 correct process."
13 What is DOO/DCM, who are
14 those people?
15 A. I think those are the
16 director of operations and the
17 distribution center managers.
18 Q. Okay. And then it says, "I
19 have asked Bill to audit each DC for
20 compliance, but we are unclear as to what
21 compliance means. Attached is the latest
22 SOP documentation that was sent to us
23 from Bill this week. Please advise.
24 Thanks."

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1 Do you see that?
2 A. I see it.
3 Q. And the Bill being
4 referenced there, I -- is you, right?
5 A. Yes.
6 Q. Okay. And when he puts --
7 when Mr. Miller puts audit, the term
8 "audit" in quotations, what is he
9 referring to that you were going to be
10 quote-unquote auditing at each DC?
11 A. I think the process is that
12 they were -- they were planning on doing
13 to meet the local requirements of the
14 CSMP system.
15 Q. Okay. So did you ultimately
16 end up doing audits of various
17 distribution centers around this time in
18 2008?
19 A. I believe that I had --
20 immediately we had meetings with
21 operational folks and described to them
22 what they would need to do. Later on we
23 did go around and do some audits on what
24 the -- the DCs were doing.

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1 Q. Okay. When you say we, who
2 are you referring to?
3 A. My -- myself and often
4 another DRA, especially initially we
5 would go to a DC. And we would look at
6 multiple areas of regulatory compliance,
7 including DEA. But also FDA and HAZMAT
8 and DOT-type stuff.
9 Q. Now, McKesson at this point
10 in 2008 had a separate audit department,
11 true -- as well, right?
12 A. Yes.
13 Q. Okay. So would you do this
14 in conjunction with the audit department
15 or separate from that?
16 A. It was something that was
17 set up as kind of a regulatory audit. So
18 it was separate.
19 Q. Okay. Okay. For example,
20 I've seen references to STARS audits?
21 A. Right.
22 Q. This is different than STARS
23 audit?
24 A. No, that's what the STARS

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1 audit was.
2 Q. Okay. So what you're doing,
3 what's being referenced here is you doing
4 STARS audits?
5 A. Yes. And there -- there are
6 multiple different kinds of STARS on it.
7 I don't -- I don't even remember what the
8 acronym stands for. But they were
9 inventory, operations, and that kind of
10 thing would have been one STARS audit,
11 and then there was a regulatory
12 component. And that would have been a
13 separate occasion, and it would be me,
14 sometimes alone, and sometimes with
15 another DRA.
16 Q. Okay. So around this time
17 period in 2008 when you were conducting
18 these audits, was this typical to see
19 individuals in the operations side having
20 concerns about not knowing what
21 compliance meant under the CSMP?
22 MR. SCHMIDT: Object to the
23 characterization.
24 THE WITNESS: We had a

<p style="text-align: right;">Page 246</p> <p>1 rollout where we were doing 2 presentation of -- of the CSMP and 3 how it worked. 4 But that was -- that was 5 PowerPoint and a discussion about 6 the intent and how things worked. 7 But then when it came time to 8 actually show them, there were 9 other classes associated with 10 that. 11 BY MR. BOGLE: 12 Q. Okay. So at this point in 13 time would those classes have already 14 been conducted? 15 A. In June I'm not sure. 16 Q. Okay. All right. But 17 Mr. Miller, based on what he's conveying 18 to Don Walker, you and others, is that at 19 least from his perspective, he was 20 unclear as to what compliance meant under 21 the CSMP, right? 22 A. Right. 23 Q. Now big picture as to the 24 CSMP. One thing that was included within</p>	<p style="text-align: right;">Page 248</p> <p>1 Q. Okay. Level 2 was done with 2 the regulatory team with assistance of 3 distribution center management, right? 4 A. Yes. 5 Q. Collaborative effort so to 6 speak? 7 A. Mm-hmm, mm-hmm. 8 Q. And then if you reach a 9 Level 3 review, more senior individuals 10 like Mr. Walker and others would be 11 brought in to weigh in and assist, right? 12 A. Yes. 13 Q. Okay. And an order would be 14 reported as suspicious only if the review 15 got to Level 3, right? 16 A. Right. The omit would kick 17 it off. And then we would do some 18 assessment to determine whether it was 19 truly suspicious. 20 Q. Right. And one option under 21 this Level 1, 2, and 3 review is you 22 could actually increase the threshold so 23 that the orders would stop omitting, 24 right, that was an option?</p>
<p style="text-align: right;">Page 247</p> <p>1 it was sort of a three-level suspicious 2 order investigation process, right? 3 A. Yes. 4 Q. Okay. And level -- what was 5 called a Level 1 review -- strike that. 6 And these reviews were 7 triggered when a customer would meet 8 their established threshold for a 9 controlled substance, right? 10 A. Yes. There would be an 11 omit, yeah. 12 Q. Right. So basically for 13 example, if a customer had a 10,000-dose 14 unit per month threshold for hydrocodone, 15 once they got to that number in a given 16 month and their orders would be omitted, 17 then it would trigger this Level 1, 18 potentially 2 or 3 process, right? 19 A. Right. 20 Q. Okay. Now, the Level 1 21 investigative process was headed up by 22 the distribution center management team, 23 right? 24 A. Right.</p>	<p style="text-align: right;">Page 249</p> <p>1 A. That could happen after it 2 had hit Level 2. 3 Q. Yeah, as part of this 4 process, this Level 1, 2, 3 process, one 5 option was to increase the threshold so 6 that the omit would stop, right? 7 A. To enable the customer to 8 get more of that particular base code. 9 Q. Right. 10 A. Yes. 11 Q. And in talking about the 12 thresholds that were established under 13 the CSMP, they were generally established 14 for customers looking at the prior 15 12 months of sales to that customer, 16 right, that was what you looked at 17 initially? 18 A. I think typically, yeah. 19 Q. Okay. And the formula was 20 typically to take the highest purchasing 21 month from the prior 12 months and add a 22 10 percent buffer and that was the 23 threshold for the customer, true? 24 A. I'm not sure exactly what</p>

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1 the buffer was, but it was something like
2 that.
3 Q. Okay. But you've heard --
4 you've --
5 A. Yeah.
6 Q. Were you aware that this was
7 generally how this stuff was set up?
8 A. Yes.
9 Q. Okay. And have you seen and
10 heard reference to -- let's just focus on
11 the 2008-2009 time frame, because I know
12 that the systems are different now.
13 But in that general time
14 frame there, 2008-2009, when a threshold
15 was set, there was a buffer added to the
16 threshold after looking at the prior
17 12 months sales, were you aware of that?
18 A. Yes.
19 Q. Okay. And do you have any
20 reason to dispute that 10 percent was the
21 number generally used as the buffer?
22 A. No. And I believe that
23 those kind of buffers were established
24 for selected base codes and then there

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1 were default levels for many of the other
2 base codes. I understand what you're
3 saying, and I agree that there was a
4 buffer.
5 Q. Okay. Well, let's -- let's
6 maybe hone that in a little bit to make
7 sure we are speaking the same language.
8 So let's talk about hydrocodone and
9 oxycodone for example.
10 A. Okay.
11 Q. Those base codes.
12 A. Okay.
13 Q. Those would be under the --
14 looking at 12 months sales, take the
15 highest 12 months, add 10 percent model,
16 right?
17 A. Yes.
18 Q. Okay. There was an
19 understanding that in setting the
20 thresholds this way for products like
21 hydrocodone and oxycodone, that very few
22 customers would actually reach their
23 threshold amount in a given month, right?
24 MR. SCHMIDT: Object to

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1 characterization.
2 THE WITNESS: I really don't
3 know what our expectation was.
4 BY MR. BOGLE:
5 Q. Okay. Were you ever
6 involved in any discussions along those
7 lines about, if we set it this way, you
8 know, we think a lot of people or not a
9 lot of people are going to hit the
10 threshold?
11 A. Well, we -- it varies,
12 because there were different pharmacies
13 that may have been growing at different
14 rates and that kind of thing.
15 So I think that that was
16 perceived to be an appropriate level.
17 Q. Okay. Let me ask you this.
18 Were you involved in creating that
19 methodology for setting thresholds?
20 A. I think I was more on the
21 executional end of that.
22 Q. Okay. Who created the
23 methodology? Do you know?
24 A. I believe that Bruce

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1 Russell, I think, spearheaded it under
2 Don's oversight.
3 Q. Don, you mean Don Walker?
4 A. Don Walker.
5 Q. Okay. I'm going to hand you
6 what I'm marking Exhibit 1.1942, also
7 marked as Exhibit 23.
8 (Document marked for
9 identification as Exhibit
10 MCK-Mahoney-23.)
11 BY MR. BOGLE:
12 Q. This is another series of
13 e-mails. Again, we're going to start
14 from the back --
15 A. Okay.
16 Q. -- and go towards the front.
17 A. Okay.
18 Q. Okay. So first, if we look
19 at, there's an e-mail, I don't know why
20 the text is grayer here. I have no idea.
21 But there's an e-mail from Don Walker,
22 June 3rd, 2010, to a group of individuals
23 including you.
24 Do you see that?

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1 A. Yes.
 2 Q. I'm on Page 3919, Bates
 3 ending.
 4 A. Right.
 5 Q. Okay. So -- and if you look
 6 at that e-mail, he talks about various
 7 changes that are going to occur under the
 8 CSMP, right?
 9 A. Yes.
 10 Q. Okay. And under what's
 11 changing, I want to look at Bullet Point
 12 Number 3. He says, "There will no longer
 13 be, quote-unquote, partial omits on
 14 controlled substances or List 1
 15 chemicals. If a customer exceeds their
 16 threshold on a certain item, the entire
 17 item order will not be shipped."
 18 Do you see that?
 19 A. Yes.
 20 Q. And I just kind of want to
 21 unpack this concept for a second to make
 22 sure it's clear. So prior to this point
 23 in time in 2010, if a customer for
 24 example had a 10,000-dose-unit threshold

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1 for hydrocodone, they were at 8,000,
 2 placed an order for 4,000 doses. Then
 3 the fill would be made at 2,000 to stop
 4 them at 10,000 and not give them the
 5 other 2,000, right?
 6 A. Yes.
 7 Q. And that's a partial fill.
 8 That's what he's talking about.
 9 A. Right.
 10 Q. So what's being done here in
 11 2010 is a change to the policy so that
 12 under that same circumstance, the entire
 13 order would be voided out and not filled?
 14 A. Yes.
 15 Q. And they would still be at
 16 8,000, right?
 17 A. Yes.
 18 Q. Okay. And then -- so if we
 19 move to Bates ending 3918 of the
 20 document. There's an e-mail at the
 21 bottom there from a Dave Morrissey, this
 22 one just to Tom McDonald on June 10,
 23 2010.
 24 Do you see that?

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1 A. Yeah.
 2 Q. Mr. Morrissey, who's noted
 3 to be the vice president and general
 4 manager, says, "Is there any special
 5 reason for the change in this partial
 6 shipment? I do not see it below. Under
 7 the example below, if the customer had a
 8 threshold of 5,000 and their accumulation
 9 was only at 2,500, and then they ordered
 10 three bottles of 1,000, we would cut the
 11 entire order. Is this more of a system
 12 problem, or is there another reason for
 13 the change?"
 14 Do you see that reference
 15 there?
 16 A. Yeah. Yeah.
 17 Q. And then Mr. McDonald's
 18 response is above, and he actually copies
 19 that same larger e-mail group that I
 20 think you said you were a part of, the
 21 PGRDRC group, right?
 22 A. Right.
 23 Q. He said there, "Dave, the
 24 reason for the change is regulatory in

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1 nature. The wholesalers'
 2 responsibilities include identifying and
 3 reporting suspicious orders. The purpose
 4 of the CSMP is to identify suspicious
 5 orders prior to shipping the order.
 6 Filling part of a suspicious order online
 7 does not conform to the compliance
 8 requirement based on our interpretation.
 9 The change allows for that compliance."
 10 Do you see that?
 11 A. Yes.
 12 Q. Okay. So then if you
 13 follow, now I'm on the first page.
 14 There's an e-mail in this chain from a
 15 Tom Smith. What did Tom Smith -- what
 16 was his role at McKesson in 2010?
 17 A. Tom was the vice
 18 president/general manager in Birmingham.
 19 Q. Okay. The term vice
 20 president and general manager, what does
 21 that person generally do at McKesson?
 22 What is that role meant to do?
 23 A. He is -- the director of
 24 operations would report to him as well as

<p style="text-align: right;">Page 258</p> <p>1 the sales personnel.</p> <p>2 Q. So that position is more on</p> <p>3 the -- on the -- it's sort of a mix</p> <p>4 between the operation and sales side?</p> <p>5 A. Yes.</p> <p>6 Q. So Mr. Smith in his e-mail</p> <p>7 in June 10, 2010, says -- I forgot my</p> <p>8 place here.</p> <p>9 I'm looking at the last</p> <p>10 paragraph in his e-mail. He says, "How</p> <p>11 in the world do we expect customers to</p> <p>12 keep up with their exact threshold on</p> <p>13 each item? By the way, many times the</p> <p>14 smaller unit sale creates a better profit</p> <p>15 margin for us."</p> <p>16 Do you see that?</p> <p>17 A. I'm lost on it.</p> <p>18 Q. The last two sentences in</p> <p>19 his e-mail.</p> <p>20 A. Okay. Okay.</p> <p>21 Q. Okay. And then there's a</p> <p>22 response again from Mr. McDonald, which</p> <p>23 again, you would have been copied on</p> <p>24 based on the e-mail group. He says,</p>	<p style="text-align: right;">Page 260</p> <p>1 you're including all base codes, all base</p> <p>2 code threshold combinations, when I think</p> <p>3 that would be true. But if you're</p> <p>4 talking about opioids, it's probably -- I</p> <p>5 think particularly for oxycodone and</p> <p>6 hydrocodone, many customers came in part</p> <p>7 because they were being set up initially</p> <p>8 at levels that were close to where they</p> <p>9 had been.</p> <p>10 Q. Okay. Levels that were</p> <p>11 highest in the last 12 months' sales plus</p> <p>12 10 percent, right?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And so if I'm</p> <p>15 understanding you correctly, you're</p> <p>16 saying that customers for opioid products</p> <p>17 would more frequently reach their</p> <p>18 threshold numbers in a given month versus</p> <p>19 non-opioid products. Is that a fair</p> <p>20 assessment?</p> <p>21 MR. SCHMIDT: Object to</p> <p>22 characterization.</p> <p>23 THE WITNESS: I would think</p> <p>24 that certain base codes, including</p>
<p style="text-align: right;">Page 259</p> <p>1 "Tom, thanks for the question. I</p> <p>2 understand your frustration. Remember</p> <p>3 our thresholds are set up with buffers to</p> <p>4 allow for variance. In order for a</p> <p>5 customer to breach a threshold set in the</p> <p>6 system, they will have to exceed their</p> <p>7 highest month's usage by 10 percent. The</p> <p>8 vast majority of customers never approach</p> <p>9 this number."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Was that your</p> <p>13 experience by this point in time as well</p> <p>14 in 2010, that the vast majority of</p> <p>15 customers never approached that number</p> <p>16 under that model?</p> <p>17 A. I'm not sure about that. I</p> <p>18 would have expected that at some point</p> <p>19 most customers might approach the number.</p> <p>20 Q. Okay. So that would be</p> <p>21 inconsistent with your experience that</p> <p>22 the vast majority of customers never</p> <p>23 approached that number?</p> <p>24 A. Well, it depends too on if</p>	<p style="text-align: right;">Page 261</p> <p>1 some opioids were more -- more the</p> <p>2 subject of omits than others that</p> <p>3 were not.</p> <p>4 BY MR. BOGLE:</p> <p>5 Q. Okay. Would those base</p> <p>6 codes include those for hydrocodone and</p> <p>7 oxycodone?</p> <p>8 A. Yes, I believe so.</p> <p>9 Q. Okay. Now, when a customer</p> <p>10 wanted to increase their threshold for a</p> <p>11 controlled substance, including opioids,</p> <p>12 they would have to initiate that process</p> <p>13 through a threshold change request form,</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And for a threshold</p> <p>17 change request form, those were reviewed</p> <p>18 and approved by director of regulatory</p> <p>19 affairs like yourself, right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And generally</p> <p>22 speaking, those threshold change requests</p> <p>23 had to be supported by documentation,</p> <p>24 right?</p>

<p style="text-align: right;">Page 262</p> <p>1 A. Yes.</p> <p>2 Q. Meaning under the CSMP, you</p> <p>3 weren't supposed to just take the</p> <p>4 customer's word for it when they said</p> <p>5 they needed more pills, right?</p> <p>6 A. They were -- the customers</p> <p>7 were supposed to provide a business</p> <p>8 reason that was driving the need.</p> <p>9 Q. Right. And that business</p> <p>10 reason was supposed to be documented,</p> <p>11 right?</p> <p>12 A. Yeah. It was supposed to be</p> <p>13 on a TCR form.</p> <p>14 Q. Right. I guess what I'm</p> <p>15 saying is a customer simply telling a</p> <p>16 director of regulatory affairs like</p> <p>17 yourself, you know, listen, I need more</p> <p>18 hydrocodone because my business is</p> <p>19 growing, for example, would not be enough</p> <p>20 without documentation to support that</p> <p>21 business growth, right?</p> <p>22 MR. SCHMIDT: Object to</p> <p>23 characterization.</p> <p>24 THE WITNESS: I think</p>	<p style="text-align: right;">Page 264</p> <p>1 increase, right?</p> <p>2 MR. SCHMIDT: Objection.</p> <p>3 Foundation.</p> <p>4 THE WITNESS: There were a</p> <p>5 variety of different things that</p> <p>6 could be bona fide reasons for an</p> <p>7 increase.</p> <p>8 BY MR. BOGLE:</p> <p>9 Q. Okay. One of which is</p> <p>10 business growth or increase in sales?</p> <p>11 A. It could be an increase in</p> <p>12 sales or it could be a practitioner, a</p> <p>13 certain type of practitioner that was</p> <p>14 proximate, or a change in, in some cases,</p> <p>15 what the formulary was for a given</p> <p>16 insurance at the end of the year.</p> <p>17 Q. Okay. During your time as</p> <p>18 director of regulatory affairs you've</p> <p>19 certainly seen threshold change requests</p> <p>20 which were based solely on claims of</p> <p>21 business growth, right?</p> <p>22 A. I believe so.</p> <p>23 Q. Okay. And when assessing</p> <p>24 whether business growth warranted a</p>
<p style="text-align: right;">Page 263</p> <p>1 that -- you know, we're doing</p> <p>2 customer visits and meeting with</p> <p>3 these people. So I'm discussing</p> <p>4 with them trends that they were</p> <p>5 seeing.</p> <p>6 And if I had been to a</p> <p>7 pharmacy and the pharmacist was</p> <p>8 saying that he was growing, and I</p> <p>9 could see that it was growing,</p> <p>10 then that would be weighed in the</p> <p>11 evaluation of the TCR.</p> <p>12 BY MR. BOGLE:</p> <p>13 Q. When you say "see that he's</p> <p>14 growing," the way to see that is to look</p> <p>15 at documentation, specifically order</p> <p>16 information, show me that your orders are</p> <p>17 increasing, right?</p> <p>18 MR. SCHMIDT: Object to</p> <p>19 characterization.</p> <p>20 THE WITNESS: Right.</p> <p>21 BY MR. BOGLE:</p> <p>22 Q. And in business, growth has</p> <p>23 historically been the most frequently</p> <p>24 used reason to request a threshold change</p>	<p style="text-align: right;">Page 265</p> <p>1 threshold increase that was being</p> <p>2 requested, similar to what we saw with</p> <p>3 the DEA recommendation previously, you</p> <p>4 looked at -- supposed to look at growth</p> <p>5 of controlled substances, and also growth</p> <p>6 of noncontrolled substances to see</p> <p>7 whether, you know, they were -- they were</p> <p>8 equivalent, whether they made sense and</p> <p>9 weren't suspicious, right?</p> <p>10 MR. SCHMIDT: Objection.</p> <p>11 Foundation.</p> <p>12 THE WITNESS: We -- we</p> <p>13 would -- we had access to reports</p> <p>14 that we could use to see what</p> <p>15 dosage units had been purchased,</p> <p>16 both opioids and nonopioids.</p> <p>17 BY MR. BOGLE:</p> <p>18 Q. Right. And that's something</p> <p>19 that, when looking at specifically</p> <p>20 somebody requesting a threshold increase</p> <p>21 for business growth, you're supposed to</p> <p>22 look at, okay, I'm going to look at that</p> <p>23 growth and see how that growth is</p> <p>24 occurring both from controlled substances</p>

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1 and noncontrolled substances, right?

2 MR. SCHMIDT: Same -- same

3 objection. Asked and answered.

4 THE WITNESS: That was the

5 method. We -- we had a variety of

6 reports and we would assess them.

7 BY MR. BOGLE:

8 Q. Okay. And -- because for

9 example if the growth is only occurring

10 with opioids and with no other products

11 that the pharmacy is purchasing, that's a

12 potential red flag that needs to be

13 investigated, right?

14 MR. SCHMIDT: Objection.

15 Foundation.

16 THE WITNESS: Again, there

17 could be a variety of reasons that

18 would cause certain types of

19 growth.

20 BY MR. BOGLE:

21 Q. Yeah. My question simply

22 is, if -- if a customer asks for a

23 threshold increase for oxycodone and when

24 you assess their business growth, you

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1 only see a growth in oxycodone purchases

2 and then nothing else, that's a potential

3 red flag that needs to be investigated

4 further, right?

5 MR. SCHMIDT: Objection.

6 Foundation.

7 THE WITNESS: I think if

8 there was a threshold change

9 request for oxycodone, we would

10 take a look at that and other

11 factors.

12 BY MR. BOGLE:

13 Q. And what report would you

14 specifically look at to assess controls

15 versus noncontrolled percentages and

16 purchases?

17 A. We had what -- we had some

18 what we called BW reports.

19 Q. BW you said?

20 A. Yeah, business warehouse.

21 Q. Okay.

22 A. So that would be a report

23 that we could run on a pharmacy and take

24 a look at history.

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1 Q. Okay. And when you are

2 looking at a threshold increase request

3 based on business growth and you look at

4 this report, it would be your practice to

5 save whatever you looked at so that if

6 somebody came back and looked later, they

7 could see what Mr. Mahoney looked at to

8 justify granting an increase, right?

9 MR. SCHMIDT: Objection.

10 Foundation.

11 THE WITNESS: I would run

12 some reports and not include all

13 of them into the final

14 determination.

15 BY MR. BOGLE:

16 Q. Was there any protocol under

17 the CSMP to save documentation that

18 you're using to justify a threshold

19 increase?

20 A. I'm not sure.

21 Q. Not sure. Okay.

22 A. I mean, times have changed

23 dramatically in terms of our ability to

24 do -- cut a quick little snippet out from

Page 269

1 a report and include that into an

2 evaluation, and we didn't have that

3 capability back then.

4 Q. Was there any requirement

5 under the CSMP to document at least what

6 you had looked at? For example I had

7 looked at BW report, it justifies this

8 increase?

9 A. I'm not sure.

10 Q. Okay. Is there any such

11 requirement now that you specifically lay

12 out what you looked at to justify a

13 threshold increase approval?

14 A. We -- we do a write-up which

15 talks about a review of purchase history

16 and dispensing history. The various

17 regulatory licensure issues, OIG,

18 exclusion reports, doing internet

19 searches, that kind of thing.

20 Q. So focusing in on the 2008

21 to 2013 time frame, was there any

22 prohibition on a director of regulatory

23 affairs like yourself summarizing the

24 data that you had reviewed to justify a

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1 threshold increase approval?
2 A. Can you say that again?
3 What were the time frames?
4 Q. 2008 to 2013.
5 A. 2013. Was there a
6 prohibition against it?
7 Q. Right.
8 A. No.
9 Q. Okay. And would you agree
10 that that would be a good practice to
11 document that what you had done was
12 justified?
13 MR. SCHMIDT: Objection.
14 Vague.
15 THE WITNESS: I think that a
16 lot of what we were doing, we're
17 receiving paper documentation, and
18 there were other times where it
19 was in another system. And for
20 the paper request, I would often
21 write in handwriting what was --
22 you know, part of my evaluation.
23 BY MR. BOGLE:
24 Q. Okay. You'd write that on

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1 the TCR form itself, is that what you're
2 saying?
3 A. Sometimes.
4 Q. Okay. Where else would you
5 write it if not on the TCR form?
6 A. There were -- I forget the
7 name of the program, it's a Microsoft.
8 Q. SharePoint?
9 A. Yeah, in SharePoint. We
10 might put some notes in there in terms of
11 what we had looked at, evaluated.
12 Q. Okay. All right.
13 Okay. I'm going to hand you
14 what's marked as 1.7195, also marked as
15 Exhibit 24.
16 (Document marked for
17 identification as Exhibit
18 MCK-Mahoney-24.)
19 BY MR. BOGLE:
20 Q. And this is a PowerPoint
21 deck titled McKesson's Controlled
22 Substance Monitoring Program, Regulatory
23 Affairs Training. Do you see that?
24 A. Yes.

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1 Q. Okay. You would attend
2 regulatory affairs training sessions like
3 these, right?
4 A. Yes, I believe.
5 Q. Okay. Okay. I want to look
6 at Page .37 of the document. And this
7 slide is titled General Principles For
8 Threshold Increases. Do you see that?
9 A. Yes.
10 Q. Okay. And it's got -- have
11 you seen this depiction before for
12 describing what should be done to review
13 a threshold change?
14 A. I believe I have.
15 Q. Okay. Well, let's take a
16 look at it real quick. In the top bubble
17 there it says, "Customer generated
18 request."
19 Do you see that?
20 A. Mm-hmm.
21 Q. And that's -- that's been a
22 requirement since the launch of the CSMP,
23 that a threshold change request should be
24 customer generated, not McKesson

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1 generated, right?
2 A. I believe so.
3 Q. And then it says, going
4 around the circle towards the right,
5 "Legitimate business justification."
6 Do you see that?
7 A. Yes.
8 Q. And again under the CSMP,
9 that's always been a requirement, that to
10 grant a threshold increase you need a
11 legitimate business justification, right?
12 A. Yes.
13 Q. Then continuing around it
14 says, "Appropriate level of diligence."
15 And that would be diligence conducted by
16 people like you, directors of regulatory
17 affairs, right?
18 A. Yes.
19 Q. Okay. And then the last
20 reference on the circle is well
21 documented. Do you see that?
22 A. Yes.
23 Q. And you agree that since the
24 launch of the CSMP in 2008, threshold

<p style="text-align: right;">Page 274</p> <p>1 increase requests have been required to 2 be well documented, right? 3 A. No. This is quite different 4 with Gary Boggs leading the process in 5 2013 and 2014. 6 Q. Okay. 7 A. There were dramatic 8 differences in let's say the schematic 9 here and also the types of documentation 10 that were expected. So when we went over 11 the things that we did before and I 12 talked about OIG and some of the other 13 attributes, those were enhancements and 14 kind of best practices, part of our 15 continue -- continuing to improve to 16 ensure that our processes are getting 17 better and better at discriminating 18 between these grey areas. 19 Q. Okay. So the principles 20 outlined here of, that a threshold 21 increase would be well documented, you're 22 saying that's -- that's a newer 23 requirement? Was it Gary Boggs' 24 requirement?</p>	<p style="text-align: right;">Page 276</p> <p>1 A. Right. 2 Q. Okay. And changed in the 3 sense that he ultimately required 4 substantially more documentation to 5 justify a threshold increase request than 6 had been required before, right? 7 A. There was a lot more 8 structure in the reports that he 9 required. 10 Q. A lot more structure. Okay. 11 So when you say a lot more structure, 12 meaning he gave clearer detail as to what 13 specifically he felt was required to 14 justify an increase being well 15 documented, right? 16 A. Yes. 17 Q. Okay. Now, what was the 18 minimum documentation requirements that 19 was acceptable for you in your practice 20 prior to Mr. Boggs' arrival? 21 A. I think that we would fill 22 out a questionnaire -- or not a 23 questionnaire. But we would -- we would 24 fill out the TCR --</p>
<p style="text-align: right;">Page 275</p> <p>1 MR. SCHMIDT: Object to 2 characterization. 3 THE WITNESS: I think -- I 4 think that with Gary's arrival, 5 there was a much more structured 6 system for what's included in 7 these kinds of evaluations. 8 BY MR. BOGLE: 9 Q. Okay. Yeah, I'm just trying 10 to understand the testimony here. So the 11 reference to being well documented. 12 Prior to Gary Boggs' arrival in 2013, was 13 that not a requirement, that threshold 14 increases needed to be well documented to 15 be justified? 16 A. I believe that we would -- 17 we would investigate it based on the 18 reports and access to information that we 19 had. And then we would make a decision. 20 Q. Okay. But as far as the 21 documentation requirements go, I think 22 you referenced that -- that that changed 23 when Gary Boggs came onto McKesson, 24 right?</p>	<p style="text-align: right;">Page 277</p> <p>1 Q. Okay. 2 A. -- and complete the 3 documentation either in SharePoint or on 4 the paperwork. 5 Q. Okay. So when you're saying 6 the documentation, you are talking about 7 the completion of the TCR form itself? 8 A. Right. 9 Q. Okay. So when this 10 references a TCR being well documented, 11 prior to 2013, did that in your practice 12 include additional documentation beyond 13 the TCR form itself? 14 A. In many cases, but not all. 15 Q. You say in many cases. In 16 those cases, what additional 17 documentation would we be talking about, 18 for your practice? I'm not asking you to 19 speculate about other people's practices. 20 I want to know about yours. 21 A. Well, sometimes, 22 particularly if there were, like, say, 23 higher levels of specific drugs, we would 24 try to get information on the doctors who</p>

<p style="text-align: right;">Page 278</p> <p>1 were prescribing them, maybe pull their 2 DEA registration, look at their state 3 licensure to see if there was an issue or 4 a problem. 5 Q. Okay. Prior to Mr. Boggs' 6 arrival, when you identified these sort 7 of doctors, would you actually reach out 8 to them? 9 A. I don't believe I called the 10 doctors themselves. 11 Q. Okay. That's done on 12 occasion now, though, isn't it, if 13 there's concerns about a doctor? 14 A. You're saying to call the 15 doctor? 16 Q. Mm-hmm. 17 A. It may be. I -- not in my 18 experience though. 19 Q. Okay. 20 A. If -- if there is a question 21 and we're talking about one of the highly 22 diverted products being high relative to 23 statistical norms, we will ask that 24 information. We'll take a look at the</p>	<p style="text-align: right;">Page 280</p> <p>1 Q. Right. Meaning any McKesson 2 policy that says, even if you're 3 concerned about a doctor's prescribing 4 practices, do not contact them? 5 A. No, I don't think so. 6 I would say that part of -- 7 when you say prohibition, I think that 8 since Gary has gotten there, I think that 9 we -- we've been instructed to -- to do 10 our diligence, but it's not our 11 responsibility. That's getting into the 12 pharmacist's corresponding 13 responsibility. So for me to interview a 14 doctor about what he's doing or how he's 15 prescribing, I'm not a practitioner, so I 16 don't know. It's much more within the 17 parameters of the responsible behavior of 18 a pharmacist than it would be for me 19 calling from Lakeland and asking the 20 doctor about those kind of things. 21 Q. Is there anybody on 22 McKesson's regulatory team that does have 23 that sort of medical background? 24 A. Someone who's a doctor?</p>
<p style="text-align: right;">Page 279</p> <p>1 licensure, see if there's an issue, kind 2 of verify whether the pharmacist is aware 3 of those kinds of issues, to verify that 4 they are doing their corresponding 5 responsibility. 6 But I don't, as the DRA, 7 make a decision about whether the 8 pharmacist is correct in his judgment of 9 the doctor. 10 I mean, I've seen issues 11 where a doctor may have had some kind of 12 disciplinary action. I talked to the 13 pharmacist. In some cases, they're quite 14 aware of it. They -- they do, however, 15 let's say, know the doctor and believe 16 that his prescribing is correct. I'll 17 document that kind of a conversation and 18 submit it where it's reviewed, and it's 19 part of the evaluation. 20 Q. Has there ever been any 21 prohibition, as far as McKesson policies 22 go, to speaking with doctors that you're 23 potentially concerned about? 24 A. Prohibition?</p>	<p style="text-align: right;">Page 281</p> <p>1 Q. Or even a pharmacist? 2 A. We have a couple people who 3 are pharmacists on our team. 4 Q. Okay. So those people that 5 are pharmacists, they're not used to 6 assess doctors of concern? 7 A. I don't think that's 8 generally what they do, no. 9 Q. Okay. In any -- are there 10 any medical doctors on the regulatory 11 team since the launch of the CSMP in 12 2008? 13 A. I'm not aware of any. 14 Q. Okay. Any medical doctors 15 involved in the broader CSMP program 16 since it's launched in 2008, even people 17 outside of regulatory affairs that are 18 responsible for compliance? 19 A. I'm not aware of any. 20 Q. Okay. 21 A. There -- McKesson may have 22 some medical doctors on some of its 23 larger opioid task force systems or 24 programs. But that's really above what I</p>

<p style="text-align: right;">Page 282</p> <p>1 do in regulatory.</p> <p>2 Q. I'm sorry. I didn't mean to</p> <p>3 step on your toes. When you say larger</p> <p>4 task force, I'm not sure what you're</p> <p>5 talking about. Can you explain that?</p> <p>6 A. I know that McKesson has</p> <p>7 engaged internally and externally to do</p> <p>8 additional education on the opioid</p> <p>9 epidemic. And I believe that we may</p> <p>10 have -- we may have a medical doctor who</p> <p>11 is involved in that end of it.</p> <p>12 Q. Okay. But that's not on the</p> <p>13 suspicious order monitoring side; that's</p> <p>14 on the education side, true?</p> <p>15 A. Correct.</p> <p>16 Q. And that would have been in</p> <p>17 the last couple years, right?</p> <p>18 A. I believe so.</p> <p>19 Q. Okay. When the CSMP was</p> <p>20 launched in 2008, another facet of the</p> <p>21 program was that customers would be</p> <p>22 contacted once they reached a certain</p> <p>23 percentage of their threshold in a given</p> <p>24 month, like 80 percent, for example,</p>	<p style="text-align: right;">Page 284</p> <p>1 initially on the invoice, for</p> <p>2 example, there was a line that</p> <p>3 might say, you know, you're</p> <p>4 approaching your threshold limit.</p> <p>5 BY MR. BOGLE:</p> <p>6 Q. Okay. And the follow-up</p> <p>7 that was done when customers were</p> <p>8 approaching their thresholds, did</p> <p>9 regulatory have any involvement in that</p> <p>10 follow-up?</p> <p>11 A. The approach to the</p> <p>12 customer?</p> <p>13 Q. Right.</p> <p>14 A. So if there were some</p> <p>15 outreach to the customer and a threshold</p> <p>16 request was generated, then yes, we would</p> <p>17 get involved.</p> <p>18 Q. Okay. But the notification</p> <p>19 to the customer themselves was done by</p> <p>20 sales, right, people in sales?</p> <p>21 MR. SCHMIDT: Objection.</p> <p>22 Foundation.</p> <p>23 THE WITNESS: I believe that</p> <p>24 the outreach may have been done by</p>
<p style="text-align: right;">Page 283</p> <p>1 right?</p> <p>2 MR. SCHMIDT: Objection.</p> <p>3 Foundation.</p> <p>4 THE WITNESS: I'm not sure</p> <p>5 exactly how that was done in</p> <p>6 practice.</p> <p>7 BY MR. BOGLE:</p> <p>8 Q. Okay. Are you familiar with</p> <p>9 the concept, though, of customers being</p> <p>10 contacted once they reached a specific</p> <p>11 percentage of their threshold in a given</p> <p>12 month?</p> <p>13 A. I know that there were some</p> <p>14 reports that were generated so that sales</p> <p>15 managers, both hospital and retail, could</p> <p>16 reach out to their customers to see if</p> <p>17 there was a need to consider a threshold</p> <p>18 change request.</p> <p>19 Q. Okay. So you're familiar</p> <p>20 with the practice generally; is that</p> <p>21 fair?</p> <p>22 MR. SCHMIDT: Object to</p> <p>23 characterization.</p> <p>24 THE WITNESS: I think that</p>	<p style="text-align: right;">Page 285</p> <p>1 sales or like an administrator or</p> <p>2 something like that within the DC.</p> <p>3 BY MR. BOGLE:</p> <p>4 Q. Now, the whole concept of</p> <p>5 notifying a customer in advance of them</p> <p>6 reaching their threshold, you understood</p> <p>7 that to be part of a general effort to</p> <p>8 make sure that the customers' business</p> <p>9 was not disrupted, right?</p> <p>10 A. Well, I think that the</p> <p>11 effort to do some evaluation in that kind</p> <p>12 of a situation was made to avoid</p> <p>13 situations in which patients were left</p> <p>14 without needed meds. And hospitals were</p> <p>15 key in that area as well.</p> <p>16 Q. Okay. It wasn't just</p> <p>17 hospitals that were contacted though,</p> <p>18 right?</p> <p>19 A. I believe so. That is</p> <p>20 correct.</p> <p>21 Q. Okay. So for -- the idea</p> <p>22 when the CSMP was launched and this</p> <p>23 warning system was created, it was to</p> <p>24 ensure that as much as possible, it was</p>

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1 business as usual for the pharmacies,
2 right?
3 MR. SCHMIDT: Object to
4 characterization.
5 THE WITNESS: I think -- I
6 think that there was an effort,
7 and I believe it was changed about
8 the same time, although I'm not
9 sure, where -- about the same time
10 where we stopped the partial
11 fills, we made changes so that
12 less information was getting out
13 to customers, both on the invoice
14 and via other means as well.
15 BY MR. BOGLE:
16 Q. Yeah. And I'm going to get
17 to that time period in just a moment.
18 But let's -- I'm kind of focusing on the
19 launch of the CSMP in 2008 --
20 A. Okay.
21 Q. -- and the few years
22 thereafter.
23 The notion of contacting a
24 pharmacy before their threshold had been

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1 met to let them know that was an effort
2 to ensure that the pharmacy could operate
3 business as usual as much as possible,
4 right?
5 MR. SCHMIDT: Object to
6 characterization. Asked and
7 answered.
8 THE WITNESS: I don't think
9 that's the case.
10 BY MR. BOGLE:
11 Q. Okay. I'm going to hand you
12 what I'm marking as Exhibit 25. Also
13 marked as 1.1962.
14 (Document marked for
15 identification as Exhibit
16 MCK-Mahoney-25.)
17 BY MR. BOGLE:
18 Q. You see this is an e-mail
19 chain, and then with a document attached
20 to it. First of all, looking at the
21 first e-mail, top e-mail on the first
22 page, you see it's an e-mail from Donald
23 Walker to you April 17th, 2008. Do you
24 see that?

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1 A. Yes.
2 Q. Okay. What I really want to
3 look at, I just want to show that you
4 received this. But what I want to look
5 at is the attachment to the e-mail which
6 starts on the third page.
7 A. Okay.
8 Q. Are you there?
9 A. .3.
10 Q. This document is titled
11 "McKesson Controlled Substances
12 Monitoring Program, Program Guide For
13 Pharmacies."
14 Do you see that?
15 A. Yes.
16 Q. Have you ever seen this
17 document before?
18 A. I'm not sure. Do you have a
19 date on this?
20 Q. It was circulated April 17,
21 2008. So at least it was in existence.
22 Beyond that, I couldn't tell you.
23 A. This was an attachment,
24 right?

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1 Q. It was, yes.
2 So this, under program
3 details on this first page here says,
4 "All U.S. drug wholesalers have always
5 been required by the DEA to monitor the
6 ordering of controlled substances. Those
7 regulations have not changed. But the
8 extent to which wholesalers are now
9 required to monitor and enforce the
10 legitimate use of controlled substances
11 has. While we trust and respect our
12 customers' integrity and professionalism,
13 we must cooperate with these mandates
14 from the DEA."
15 Do you see that?
16 A. Yeah.
17 Q. Okay. So this -- this is a
18 document that the audience is to pharmacy
19 customers, right?
20 A. Yes.
21 Q. Okay. And below that it
22 says, "Therefore, beginning this month,
23 McKesson will implement the CSMP. Here
24 is how the program works."

<p style="text-align: right;">Page 290</p> <p>1 And we look at the bottom 2 two bullet points there on that page. It 3 says -- the next to last one says, 4 "Customers will be alerted in advance of 5 meeting or exceeding their thresholds." 6 Do you see that? 7 A. Mm-hmm. 8 Q. Is that yes? 9 A. Yes. 10 Q. Below that it says, 11 "Customers can apply for threshold 12 adjustments if their business is changing 13 or they anticipate needing to place a 14 larger order." 15 Do you see that? 16 A. Yes. 17 Q. Okay. And then it continues 18 on the next page. Do you see where it 19 says, "Notification system"? 20 A. Mm-hmm. 21 Q. The second sentence under 22 that says, "McKesson's CSMP works with 23 your regular ordering system processes to 24 deliver communications in plenty of time</p>	<p style="text-align: right;">Page 292</p> <p>1 you and your business and is committed to 2 working closely with you to ensure that 3 your pharmacy continues to be 4 successful." 5 Then it says, "This program 6 addresses the DEA's requirements to 7 ensure controlled substances are used in 8 the way they were intended, but it also 9 ensures that you as a McKesson customer 10 can continue with business as usual." 11 Do you see that? 12 A. Yes. 13 Q. Okay. And you ever seen 14 that reference there, you know, that one 15 of the goals of the CSMP was to ensure 16 that McKesson customers can operate with 17 business as usual? 18 MR. SCHMIDT: Object to 19 characterization. 20 THE WITNESS: I think we 21 were getting a lot of pushback 22 from pharmacies as we were rolling 23 this out. And they were saying 24 why are you doing this. You have</p>
<p style="text-align: right;">Page 291</p> <p>1 for your pharmacy to take corrective 2 action, helping head off any potential 3 disruptions in supply." 4 Do you see that? 5 A. Yes. 6 Q. Okay. And then there's a 7 section that says, "Communicating 8 anticipated order increases." Do you see 9 that section? 10 A. Yes. 11 Q. Okay. The second sentence 12 there says, "McKesson has developed a 13 threshold change request process, 14 allowing you to communicate your needs in 15 advance so we can accommodate them in 16 advance of any delays or disruptions in 17 delivery." 18 Do you see that? 19 A. Yes. 20 Q. Okay. And the last thing I 21 want to look at here is that sort of dark 22 grey box below it. 23 A. Mm-hmm. 24 Q. It says, "McKesson values</p>	<p style="text-align: right;">Page 293</p> <p>1 no -- no right to be asking me all 2 these questions. 3 And I think that McKesson 4 was saying we have to do this, 5 but, you know, it shouldn't affect 6 how -- how we operate. 7 BY MR. BOGLE: 8 Q. Right. So you are 9 ultimately sort of reassuring the 10 pharmacies that it would be business as 11 usual, right, that's what this document 12 indicates -- 13 MR. SCHMIDT: Object to 14 characterization. 15 BY MR. BOGLE: 16 Q. -- true? 17 A. Well, I think business as 18 usual means that it's not going to be -- 19 it's not going to be a big problem to 20 doing business with McKesson. 21 Q. Now, I think you made a 22 reference to this a moment ago, but the 23 threshold warning system was abandoned by 24 McKesson in around 2013, right?</p>

<p style="text-align: right;">Page 294</p> <p>1 MR. SCHMIDT: Object to 2 characterization. 3 THE WITNESS: You mean in 4 terms of -- 5 BY MR. BOGLE: 6 Q. You stopped doing it? 7 A. -- putting it on the invoice 8 you said? 9 Q. Stopped contacting customers 10 in advance of them reaching their 11 thresholds. 12 A. You said 2013? 13 Q. Correct. 14 A. I -- I know that it was -- 15 it did occur. I guess I've seen a couple 16 of references to it. But I'm not sure 17 exactly the time frame or that it was 18 quote-unquote abandoned. 19 Q. Okay. Well, maybe we'll 20 narrow down a few of those issues then. 21 I'll mark as Exhibit 26, also marked as 22 Exhibit 1.1743. 23 (Document marked for 24 identification as Exhibit</p>	<p style="text-align: right;">Page 296</p> <p>1 controlled substances distribution 2 policies and procedures." 3 Do you see that? 4 A. Yes. 5 Q. Okay. Now, were these 6 enhancements done around the time that 7 Mr. Boggs came on board with the company? 8 A. I would say yeah. 9 Q. Was this his initiative, 10 these enhancements? 11 A. I'd have to take a look. 12 Q. Okay. Yeah, take a minute 13 to look, see if it refreshes. There's a 14 PowerPoint deck behind that. I don't 15 know if that refreshes you or not, but 16 whatever you want to look at. Just tell 17 me when you're ready to talk about it. 18 A. Okay. 19 Okay. Yeah, I would say 20 that they are concurrent with Gary Boggs' 21 arrival. 22 Q. Okay. And -- all right. 23 Let's look then next at Page .4, just to 24 introduce the -- the deck here. It says,</p>
<p style="text-align: right;">Page 295</p> <p>1 MCK-Mahoney-26.) 2 BY MR. BOGLE: 3 Q. This is another e-mail with 4 a PowerPoint attached to it. 5 A. Yes. 6 Q. Actually a couple e-mails. 7 So let's start on the second 8 page. Sort of a little past middle, 9 there's an e-mail from an Ellie Rio, 10 October 24, 2013, do you see that? 11 A. Mm-hmm. 12 Q. Okay. And it's sent to a 13 lot of people. 14 A. Right. 15 Q. And if you carry over to the 16 next page, the substance of it, it says, 17 "As you are aware, we are in the process 18 of implementing an enhanced suspicious 19 order monitoring program. As a 20 pharmaceutical distributor, McKesson has 21 a responsibility to ensure pharmaceutical 22 controlled substances are not diverted 23 for nonmedical or other illegal purposes. 24 To that end, we are further enhancing our</p>	<p style="text-align: right;">Page 297</p> <p>1 "Controlled Substance Compliance Program, 2 November 1, 2013." 3 Do you see that? 4 A. Yes. 5 Q. And then if you go to 6 Page .7. The slide is titled Controlled 7 Substance Monitoring Program, Significant 8 Enhancements to CSMP. Do you see that? 9 A. Yes. 10 Q. And there's two different 11 boxes. Looking at the box on the right 12 where it says, "Key enhancements 13 underway," the second bullet point down 14 to the far left says, "More rigorous 15 process for threshold change requests. 16 Changes are the exception, not the rule." 17 Do you see that? 18 A. Yes. 19 Q. Okay. And that was a change 20 here in 2013, right? Because prior to 21 that, they had essentially been the rule, 22 not the exception, right? 23 A. There had been more 24 threshold changes before then, yes.</p>

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1 Q. Right. They were -- it was
2 easier to get thresholds increased prior
3 to this point in time when these
4 enhancements were made, right?
5 A. Yes. Although we had made
6 some unilateral reductions and that kind
7 of thing in the interim.
8 Q. Okay. But as a -- as a
9 practical matter, the reason these
10 enhancements were necessary is because
11 there was a feeling that it was too easy
12 to get thresholds increased at McKesson,
13 right?
14 MR. SCHMIDT: Objection.
15 Foundation.
16 THE WITNESS: I think this
17 was an effort to ensure that
18 the -- the process was more
19 consistent and more rigorous.
20 BY MR. BOGLE:
21 Q. And then if you look at
22 Page .10, you see here there's a memo to
23 sales associates. And it says what, at
24 the top. It says, "Script and talking

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1 points regarding retail controlled
2 substance threshold inquiries or
3 threshold changes being made."
4 Do you see that?
5 A. Yes.
6 Q. Okay. And then the last
7 bullet point on the bottom says,
8 "Customer requests to know their exact
9 monthly threshold."
10 Do you see that?
11 A. Yes.
12 Q. And it says there below
13 that, "We are not communicating specific
14 thresholds or providing threshold warning
15 reports. We believe this is a better
16 practice. Thresholds are not intended to
17 allow customers to manage against a
18 number. We strongly believe that
19 customers should exercise their
20 corresponding responsibility one
21 prescription at a time. Prescription
22 drug abuse is an epidemic and we all must
23 do our part to fight this nationwide
24 problem."

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1 Do you see that?
2 A. Yes.
3 Q. Okay. So this was a change
4 that was being made in that these
5 threshold warning reports, and giving out
6 specific thresholds, was no longer going
7 to be permitted starting at this point in
8 time, right?
9 A. Yes.
10 Q. Okay. For the reasons that
11 we just read in this paragraph, right,
12 because it was believed it was a better
13 practice?
14 A. Yes.
15 Q. Okay.
16 MR. BOGLE: I'm done with my
17 questions. Mr. Bowden is going to
18 have some additional follow-up.
19 Maybe we can take a break and
20 switch around. I'm done with
21 mine.
22 MR. SCHMIDT: Are we at four
23 hours now?
24 THE VIDEOGRAPHER: We are at

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1 4 hours and 3 minutes.
2 Shall we go off the record.
3 MR. BOGLE: Yes.
4 THE VIDEOGRAPHER: The time
5 2:45 p.m. Going off the record.
6 (Short break.)
7 THE VIDEOGRAPHER: We are
8 back on the record. The time is
9 3:04 p.m.
10 - - -
11 EXAMINATION
12 - - -
13 BY MR. BOWDEN:
14 Q. Good afternoon, Mr. Mahoney.
15 A. What's going on?
16 Q. My name is Wes Bowden. I'm
17 going to ask you a couple questions and
18 finish out your deposition.
19 A. Okay.
20 Q. Before we left off the break
21 you talked with my partner about some of
22 the larger issues with the CSMP.
23 And one thing that I was
24 going to ask you about -- trying to get

<p style="text-align: right;">Page 302</p> <p>1 my computer booted up here. You had 2 talked about some of the documentation 3 requirements as it relates to the CSMP. 4 And you said that prior to Mr. Boggs 5 coming on board with McKesson, that the 6 minimum documentation requirements that 7 you felt were necessary were to simply 8 fill out the TCR itself, and that's the 9 threshold change request form; is that 10 right?</p> <p>11 MR. SCHMIDT: Object to the 12 characterization.</p> <p>13 THE WITNESS: I think that 14 that was how the customer got it 15 kicked off.</p> <p>16 BY MR. BOWDEN: 17 Q. Okay. 18 A. I mean, for example when 19 Mr. Boggs came on board, based on this, 20 you'd see that we, I guess, systemized 21 the dispensing report. So it became a 22 more regular part of any TCR, was three 23 months' dispensing data from the customer 24 which enabled us to get a better current</p>	<p style="text-align: right;">Page 304</p> <p>1 mute, including whoever was just 2 typing. 3 (Document marked for 4 identification as Exhibit 5 Mahoney-27.) 6 BY MR. BOWDEN: 7 Q. I apologize. I did not put 8 the sticker on yours. I'll take that 9 back from you. 10 I'll take you to Page 3, the 11 last page of this document first. You 12 see this is an e-mail from Dave Gustin. 13 And in 2011, he was one of the directors 14 of regulatory affairs along with 15 yourself, right? 16 A. Yes. 17 Q. And the body -- the subject 18 of this e-mail says "CSMP contribution, 19 DCM call, tightening up our increase 20 process." 21 Do you see that? 22 A. Yes. 23 Q. This is NC CSMP -- that 24 would be north central?</p>
<p style="text-align: right;">Page 303</p> <p>1 snapshot of what was happening at the 2 customer's -- 3 Q. Right. And Mr. Boggs came 4 aboard in the 2014 time period? 5 A. 2013. 6 Q. 2013? 7 A. I'd say, I think I met him 8 at Olive Branch on about October 1st or 9 2nd of 2013. 10 MR. SCHMIDT: Can I just 11 remind the folks on the phone to 12 go on mute, including people who 13 are typing and shuffling papers. 14 BY MR. BOWDEN: 15 Q. All right. Before Mr. Boggs 16 came on board in 2013, internally there 17 were discussions about what the necessary 18 documentation would consist of, right? 19 A. Right. 20 Q. Okay. I'm going to hand you 21 what I will mark as Exhibit 27. It's 22 RP-1.1680. 23 MR. SCHMIDT: Again, can I 24 ask people on the phone to go on</p>	<p style="text-align: right;">Page 305</p> <p>1 A. Yes. 2 Q. Which his region -- there's 3 four at the time. His region was north 4 central. Yours was southeast, right? 5 A. Yes. 6 Q. Okay. And he writes here, 7 "My contribution to today's call centers 8 around how we, through the CSMP, will 9 meet the expectations of the program 10 itself, and more urgently the DEA, under 11 the terms of the agreement of May 2008." 12 Do you see where that's 13 written? 14 A. Yes. 15 Q. And so three years has gone 16 by since that 13 and a half million 17 dollars fine and agreement that you 18 entered into in May of 2008 -- you being 19 McKesson, right? 20 A. Yes. 21 Q. And here he's saying, "The 22 expectations that we know our customer 23 and their customers too, at least to the 24 point where we are seeing and responding</p>

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1 to any diversion that may be taking
2 place, if not preventing it upfront."
3 Do you see where that's
4 written?
5 A. Yes.
6 Q. And so at least according to
7 the other directors of regulatory affairs
8 throughout that time period, 2008 to 2014
9 you were making an effort to prevent
10 diversion if you could; is that right?
11 A. Yeah. That was always a
12 part of our intent.
13 Q. Right. And he says, "A
14 difficult and sometimes nearly impossible
15 task."
16 Do you see where that's
17 written?
18 A. Yes.
19 Q. Do you agree that was a
20 difficult and nearly impossible task?
21 A. I think that there are a lot
22 of factors that we try to account for and
23 examine as we engage with the pharmacies.
24 But there are a lot of things that we

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1 don't see either. I mean, we don't see
2 the transaction take place. We don't
3 know where the customers are coming from,
4 aside from when we ask the pharmacist.
5 Q. Right.
6 A. We can't --
7 Q. I'm sorry.
8 A. We can't see if there are
9 four people in a single card getting the
10 same script altogether.
11 We see a bigger picture
12 vision of the pharmacy, but we are not
13 present for every transaction.
14 Q. And I understand that. And
15 part of it, if I heard you correctly, was
16 that you're only aware of the information
17 that you ask for from the pharmacy,
18 correct?
19 MR. SCHMIDT: Object to
20 characterization.
21 THE WITNESS: We're -- we're
22 aware of what we can observe.
23 BY MR. BOWDEN:
24 Q. Sure.

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1 A. In the short time that we
2 may be there.
3 Q. Right.
4 A. We can take a look at the
5 data. We can ask questions about them
6 and their processes.
7 Q. And he continues on in the
8 next sentence here, if you read with me.
9 "To that end, we have gone to great
10 lengths to vet each of our accounts, ISMC
11 and others, over time and put photos
12 search engine result, screen prints,
13 dispensing data, questionnaires, TCRs,
14 Level 1 interview notes in the file."
15 And that's along the level of what you
16 were just describing to us, right? Those
17 are examples --
18 A. Examples, yes.
19 Q. -- of documentation that you
20 might use. And he's talking about the
21 context of typing up the increase
22 process, which would be the threshold
23 increases, correct?
24 A. I think we would review

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1 these. And there are notes and so forth
2 on the various documents that I would
3 have been working with.
4 Q. I'm sorry. Can you say that
5 again. I didn't hear you.
6 A. I tend to do handwritten
7 notes sometimes on the TCR, let's say, if
8 I got it.
9 Q. Okay. And part of the
10 concern during this time period in 2011,
11 if you go to the second page, is that the
12 threshold increases are a bit lax. Is
13 that fair to say?
14 MR. SCHMIDT: Object to the
15 characterization.
16 THE WITNESS: What area are
17 you talking about?
18 BY MR. BOWDEN:
19 Q. I'm just asking you
20 generally, part of the concern that
21 Mr. Gustin was raising during this time
22 period was that in his view and in
23 discussions with you too, that the
24 threshold increases had been a bit lax,

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1 that they had been using reasons such as
 2 increase in business for example, to
 3 justify threshold change?
 4 MR. SCHMIDT: Object to the
 5 characterization.
 6 THE WITNESS: I don't know
 7 exactly what he considered
 8 appropriate for a valid increase.
 9 But I assessed the increases based
 10 on my knowledge of the pharmacy,
 11 if I had been there, data that I
 12 was looking at.
 13 BY MR. BOWDEN:
 14 Q. Okay. Let's go down to the
 15 bottom e-mail there. It says -- do you
 16 see where it says team? You with me?
 17 A. Yeah.
 18 Q. The second line there says,
 19 "The DEA has taken a very active and
 20 detailed interest in CSMP. It looks as
 21 though they will be stepping up their
 22 follow-up on the agreement of 2008."
 23 That's three years now after
 24 the agreement was put into place, right,

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1 and the concern was coming down that you
 2 need to tighten up the process, true?
 3 A. I have no idea --
 4 MR. SCHMIDT: Object to the
 5 characterization.
 6 THE WITNESS: -- I have no
 7 idea what he's referring to there.
 8 BY MR. BOWDEN:
 9 Q. Okay. All right. Two more
 10 lines down, "Just a word to encourage you
 11 to be vigilant and to communicate the
 12 absolute need for the corporate offices
 13 of our RNA to be tight in their processes
 14 as stated below. CVS was fined
 15 \$75 million for being lax and it wasn't
 16 even controls. That was a warning shot
 17 across our collective bows."
 18 Do you see that?
 19 A. I see it.
 20 Q. And if you go up, you are
 21 actually copied on this e-mail, the
 22 first -- there right there. You are
 23 brought onto this e-mail on April 15,
 24 2011, do you see that?

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1 A. Yes.
 2 Q. And it says, "Team, I
 3 communicated the sense of urgency we are
 4 feeling to our RNA partners. They may
 5 also need to step up the vigilance and
 6 documentation."
 7 Do you see that there?
 8 A. I see it.
 9 Q. And so part of the concern
 10 here was not just for the DRA, but for
 11 the people underneath them, providing
 12 information about threshold limit
 13 increases, that there needs to be better
 14 documentation, right?
 15 MR. SCHMIDT: Object to
 16 characterization.
 17 THE WITNESS: Well, I think
 18 that down below where you see
 19 Elaine Thomet and Michael Bishop
 20 and Darlene Ray. They were in a
 21 group of sales managers, retail --
 22 or RNA sales managers that would
 23 interact with the retail national
 24 accounts which would include, as

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1 mentioned here, CVS, Walmart,
 2 Publix was one of mine, Winn-Dixie
 3 was one of mine.
 4 So when they put together
 5 the documentation that was
 6 required for a TCR for the RNA,
 7 they would be interacting
 8 primarily with the -- the people,
 9 let's say the CSMP people from
 10 corporate offices or maybe
 11 regional offices of some of these
 12 RNA accounts. And they would pull
 13 this into the documentation for
 14 such an increase.
 15 So Dave had had a
 16 conversation with that RNA team.
 17 And he was, I guess, letting us
 18 know about it.
 19 BY MR. BOWDEN:
 20 Q. But you understood that part
 21 of the issue is that the RNA teams were
 22 not consistently following the SOPs and
 23 protocols in terms of documenting when
 24 thresholds would be increased, correct?

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1 MR. SCHMIDT: Objection.
2 Foundation.
3 THE WITNESS: I'm not sure
4 exactly how that worked for the
5 other RNA accounts. But I believe
6 that it was followed for the RNA
7 accounts that I was working with.
8 BY MR. BOWDEN:
9 Q. You believe it was followed
10 with the RNA accounts that you were
11 working on. Is that what you said?
12 A. Right.
13 Q. Going to mark for you, this
14 will be Exhibit 28 to your deposition.
15 It's our P-1.1783.
16 (Document marked for
17 identification as Exhibit
18 Mahoney-28.)
19 BY MR. BOWDEN:
20 Q. Do you remember getting this
21 document? This is a week after that
22 e-mail we just reviewed. You were
23 provided with an internal audit report.
24 Do you recall reading this?

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1 A. I'd have to take a look at
2 it.
3 Q. Okay. And we're going to go
4 through it.
5 A. Okay.
6 Q. But this is from Donald
7 Walker at the top to yourself. And to
8 some of the other DRAs, right?
9 A. Yes.
10 Q. And you can see here, he
11 says, "I've attached the distribution
12 center audit just completed by internal
13 audit. I share this with you as I have
14 done in the past so you have a detailed
15 view of what the audit found. The three
16 major areas centered around secondary
17 wholesalers, pedigree, licensing, and, 3,
18 consistently following SOPs including
19 documentation."
20 Do you see that there?
21 A. Yes.
22 Q. And if you go down a little
23 bit more it says actions. "I'm" -- "I'm
24 certain that if we picked four different

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1 DCs we would find the same issues so we
2 should assume this is a networkwide
3 concern."
4 Do you see where that's
5 written?
6 A. Yes.
7 Q. And in this internal audit,
8 part of the discussion I was just asking
9 you about, was that -- why don't you just
10 go ahead -- strike that.
11 Turn to Page 6 with me if
12 you will.
13 At the top it says
14 overall -- Page 6. "Overall conclusion.
15 Yellow needs improvement.
16 "Based on the testing
17 performed to meet our audit
18 objectives" -- "audit objectives, we
19 conclude the controls related to
20 regulatory compliance, operations and
21 system access need to be strengthened and
22 enhanced."
23 Do you see where that's
24 written?

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1 A. Yes.
2 Q. "While the U.S. Pharma
3 distribution network maintains a robust
4 controlled environment and stringent
5 standard operating procedures, overall
6 results of the audit indicate that the
7 distribution centers are not consistently
8 completing and maintaining the required
9 documentation associated with certain
10 SOPs."
11 And that was part of your
12 understanding at the time, right, that
13 there were distribution center problems
14 where the SOPs weren't being followed,
15 proper documentation wasn't being filled
16 out --
17 MR. SCHMIDT: Objection.
18 BY MR. BOWDEN:
19 Q. -- and maintained the way it
20 was supposed to be, correct?
21 MR. SCHMIDT: Objection.
22 Foundation.
23 THE WITNESS: I'm not sure
24 exactly which SOPs weren't being

<p style="text-align: right;">Page 318</p> <p>1 followed.</p> <p>2 BY MR. BOWDEN:</p> <p>3 Q. Okay. Well, they actually</p> <p>4 attach some of the observations and</p> <p>5 support for the overall conclusions in</p> <p>6 this audit, don't they?</p> <p>7 Start at Page 14. I'll help</p> <p>8 speed this up for you. 14.</p> <p>9 This is a chart that's</p> <p>10 attached for the internal audit. It says</p> <p>11 "Issue observation" at the top.</p> <p>12 A. Yes.</p> <p>13 Q. And then Issue Number 11,</p> <p>14 threshold change request. "Per the MOM,</p> <p>15 the DC is required to perform a review of</p> <p>16 the monthly threshold change and omit</p> <p>17 reports to monitor customer orders and</p> <p>18 purchases of DEA controlled substances.</p> <p>19 Distribution center manager or designated</p> <p>20 manager will sign, date and retain the</p> <p>21 required documentation in the CSMP file."</p> <p>22 And we've got underneath</p> <p>23 there, the four different, continuing</p> <p>24 onto the next page, distribution centers</p>	<p style="text-align: right;">Page 320</p> <p>1 Q. Yes, sir. 14.</p> <p>2 A. Yes.</p> <p>3 Q. And I'm blowing it up here</p> <p>4 on the screen for you too. Might be</p> <p>5 easier up there.</p> <p>6 "Risk: Failure to follow</p> <p>7 established controlled substance customer</p> <p>8 monitoring procedures could impact the</p> <p>9 effectiveness of the DEA required</p> <p>10 suspicious order monitoring system,"</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. And the point here is that</p> <p>14 if you're not doing the proper</p> <p>15 documentation, you might not see the red</p> <p>16 flags for diversion, you might not see</p> <p>17 the red flags for whether an increase is</p> <p>18 appropriate, correct?</p> <p>19 A. I understand what you're</p> <p>20 saying there.</p> <p>21 Q. Do you agree with what I've</p> <p>22 said?</p> <p>23 A. Yes.</p> <p>24 Q. Under Delran, the first</p>
<p style="text-align: right;">Page 319</p> <p>1 that were subject to this internal audit:</p> <p>2 Delran, New Castle, Washington</p> <p>3 Courthouse, and on the following page is</p> <p>4 Conroe, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And Conroe at the time, when</p> <p>7 we first started the deposition, you had</p> <p>8 listed six different distribution centers</p> <p>9 in which you were overseeing. And Conroe</p> <p>10 was one of them, right?</p> <p>11 A. Yes. Yes.</p> <p>12 Q. And so in the 2011 time</p> <p>13 period when this internal audit took</p> <p>14 place, this was one of the distribution</p> <p>15 centers over which you had</p> <p>16 responsibility, right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So let's go back to,</p> <p>19 if you can, the -- go back to the prior</p> <p>20 page, please.</p> <p>21 And underneath the column</p> <p>22 that says risk, do you see where it says,</p> <p>23 "Significance, moderate"?</p> <p>24 A. That's on 14?</p>	<p style="text-align: right;">Page 321</p> <p>1 column, you see the internal audit based</p> <p>2 on our review of 103 threshold change</p> <p>3 request forms for July and November of</p> <p>4 2010 -- they pulled two months -- we know</p> <p>5 38 out of the 66 forms were not on file</p> <p>6 for the month of November.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And that would be a</p> <p>10 shortcoming per McKesson SOPs, right, to</p> <p>11 not maintain files, the documents, for</p> <p>12 the threshold change forms, right?</p> <p>13 A. Yes.</p> <p>14 Q. In addition, DC management</p> <p>15 did not sign and date the threshold</p> <p>16 adjustment report for July and November</p> <p>17 as required by the policy.</p> <p>18 New Castle. One threshold</p> <p>19 change request form was not on file to</p> <p>20 support a change in the customer's</p> <p>21 controlled substance threshold. In</p> <p>22 addition, one of the TCRs reviewed did</p> <p>23 not contained the required information,</p> <p>24 for example base code, increase amount,</p>

<p style="text-align: right;">Page 322</p> <p>1 increase reason, et cetera, right?</p> <p>2 A. Okay.</p> <p>3 Q. So as part of McKesson's due</p> <p>4 diligence process, those are things that</p> <p>5 should be checked on, for example what</p> <p>6 the base code is of the specific drug,</p> <p>7 the increase amount and the increase</p> <p>8 reason, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And it would have been part</p> <p>11 of your personal -- well, strike that.</p> <p>12 If someone had given you a</p> <p>13 TCR that did not contain those, would you</p> <p>14 kick it back to them?</p> <p>15 A. I believe so.</p> <p>16 Q. Conroe, on the following</p> <p>17 page, two threshold change request forms</p> <p>18 for July and November 2010 were not on</p> <p>19 file at the -- at the distribution</p> <p>20 center. In addition the threshold</p> <p>21 adjustment report was not signed and</p> <p>22 dated by the DC management for July and</p> <p>23 November 2010 as required by the policy.</p> <p>24 Do you see where that's</p>	<p style="text-align: right;">Page 324</p> <p>1 these audits reports in the past or you</p> <p>2 simply don't recall as you sit here</p> <p>3 today?</p> <p>4 A. That -- that would imply</p> <p>5 that I had received it before. I -- I</p> <p>6 don't recall it being a regular event,</p> <p>7 you know, based on, you know, every other</p> <p>8 year, or anything like that. I'm not</p> <p>9 sure.</p> <p>10 Q. Do you know how much time</p> <p>11 would have gone by between individual</p> <p>12 internal audits, best estimate you can</p> <p>13 give us?</p> <p>14 A. I don't.</p> <p>15 Q. Well, when you started as</p> <p>16 a -- in regulatory affairs in 2008 until</p> <p>17 this time period in 2011, how many of</p> <p>18 these internal audit reports do you</p> <p>19 recall receiving? Is this the only one?</p> <p>20 A. I'm not sure.</p> <p>21 Q. In 2011, how many</p> <p>22 distribution centers did McKesson have?</p> <p>23 A. I'm not sure.</p> <p>24 Q. You think about 30?</p>
<p style="text-align: right;">Page 323</p> <p>1 written?</p> <p>2 A. Yes.</p> <p>3 Q. And was this the first time</p> <p>4 you had been made aware of these</p> <p>5 deficiencies for distribution centers</p> <p>6 over which you had responsibility?</p> <p>7 A. I'm not sure. I -- I think</p> <p>8 that the audit team was invited in just</p> <p>9 to see how the CSMP system was working.</p> <p>10 And this may have been the first audit</p> <p>11 level review of it that I had seen.</p> <p>12 Q. Okay. That you had seen.</p> <p>13 But there had been some done in the past,</p> <p>14 correct?</p> <p>15 A. I'm not sure about that.</p> <p>16 Q. Okay. Let's go back to the</p> <p>17 first page. So Mr. Walker is writing to</p> <p>18 you and others in the second sentence.</p> <p>19 It says, "I share this with you as I have</p> <p>20 done in the past, so you have a detailed</p> <p>21 view of what the audit found."</p> <p>22 A. Okay.</p> <p>23 Q. Does that refresh your</p> <p>24 memory, have you -- have you received</p>	<p style="text-align: right;">Page 325</p> <p>1 A. Approximately 30. I would</p> <p>2 say 28 to 30.</p> <p>3 Q. 28 to 30. And of those 28</p> <p>4 or 30, you reviewed four in this internal</p> <p>5 audit report, right?</p> <p>6 A. Excuse me?</p> <p>7 Q. Of those 28 or 30, four of</p> <p>8 the distribution centers were looked at</p> <p>9 for this internal audit report, correct?</p> <p>10 A. Okay, yes.</p> <p>11 Q. And the conclusions they</p> <p>12 drew were that the SOPs weren't being</p> <p>13 followed. We just went through those</p> <p>14 examples like those four where there was</p> <p>15 problems and deficiencies in the TCRs</p> <p>16 themselves, right?</p> <p>17 MR. SCHMIDT: Object to the</p> <p>18 characterization.</p> <p>19 THE WITNESS: I don't know</p> <p>20 what situation on the Conroe one,</p> <p>21 in which I would have been</p> <p>22 involved in. I'm not sure what</p> <p>23 the situation was. I'm not sure</p> <p>24 if I received a subsequent</p>

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1 clarification on that or not.
 2 BY MR. BOWDEN:
 3 Q. Gotcha. But after you
 4 reviewed this document, you're not aware
 5 of them going out and auditing the other
 6 24 or 26 distribution centers after
 7 completing this internal audit, right?
 8 A. I don't know how many audits
 9 they did. I have no idea.
 10 Q. The assumption here was
 11 that, if you see it consistently with
 12 these four distribution centers, we can
 13 assume that it's a networkwide concern,
 14 right?
 15 MR. SCHMIDT: Objection.
 16 THE WITNESS: I think the
 17 reason it was done was to take a
 18 sample and to say, "You guys can
 19 do better here," and the
 20 expectation was that we would do
 21 better after that.
 22 BY MR. BOWDEN:
 23 Q. What was Mr. Walker's
 24 position in the company? He was a senior

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1 vice president, right?
 2 A. Yes.
 3 Q. And he was the person that
 4 you answered to?
 5 A. Yes.
 6 Q. And in his e-mail he says,
 7 "I am certain that if we pick four
 8 different distribution centers, we would
 9 find the same issues, so we should assume
 10 this is a networkwide concern," right?
 11 A. Yes.
 12 Q. So senior management is
 13 saying that we're not going to look at
 14 the other 24 or 26 distribution centers,
 15 we have enough information here to assume
 16 that it's a network wide issue, right?
 17 A. Well, I think he's trying to
 18 say that, you know, if your DC isn't
 19 here, don't assume that everything is
 20 great. This is a representative sample,
 21 and it's something that we need to make
 22 sure that we are dotting the I's and
 23 crossing the T's on, throughout the
 24 network.

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1 Q. You said that you were
 2 responsible for some of the retail
 3 accounts, right?
 4 A. Yes.
 5 Q. The national retail
 6 accounts?
 7 A. For a time period, I guess
 8 until Gary Boggs' arrival, or maybe 2014.
 9 Q. Okay. And one of those
 10 changes was the Giant Eagle stores in
 11 Ohio, right?
 12 A. Yes. And Pennsylvania.
 13 Q. Ohio and Pennsylvania,
 14 right. I'm handing you what I'm marking
 15 as Exhibit 29 to your deposition.
 16 (Document marked for
 17 identification as Exhibit
 18 Mahoney-29.)
 19 BY MR. BOWDEN:
 20 Q. And so, on the national
 21 retail chains that you were responsible
 22 for, was it your decision to raise and to
 23 increase thresholds? Was that your
 24 responsibility?

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1 A. Yes. I mean, it was
 2 initiated by the sales team with the
 3 customer.
 4 Q. Right. And we had talked a
 5 little bit about before the break, you
 6 had been discussing about whether there
 7 was a change at some point about reaching
 8 out to the customers about what their
 9 threshold were, to then limiting that
 10 information to the customers.
 11 Do you recall that
 12 discussion?
 13 A. Yes, yes.
 14 Q. And so I want to direct your
 15 attention to the bottom of the first page
 16 here.
 17 And Sabrina Cook is listed
 18 as an account manager, RNA support
 19 solutions. That would be the customer
 20 service person you were talking about?
 21 A. Yes.
 22 Q. That type position?
 23 And you can see that
 24 Ms. Cook is reaching out directly to Greg

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<p>1 Carlson in the "to" line. 2 Do you see that? 3 A. Yes. 4 Q. And Mr. Carlson, he was 5 actually with Giant Eagle, right? 6 A. I believe so. 7 Q. Okay. And it says down 8 here, "Greg, below are stores that are at 9 least 80 percent or above their 10 thresholds." Excuse me. Let me restate 11 that. 12 It says, "Below are stores 13 that are at least 80 percent or above 14 their thresholds. Please review and let 15 me know if there is a business reason for 16 the increase." 17 Do you see that? 18 A. Yes. 19 Q. And it says, "We have seven 20 business days before all the thresholds 21 would be reset." 22 So essentially they're 23 three-quarters of the way through the 24 month, and they're tracking above what</p>	<p>1 terms of what was required in 2 order to go ahead and do an 3 increase. And I think that we saw 4 earlier documents that said that 5 this kind of information was going 6 to stop at a certain time. It was 7 not only presented this way, but 8 on our invoicing as well. 9 BY MR. BOWDEN: 10 Q. Right. And we just -- you 11 and I had just looked at a couple of 12 documents where there were concerns about 13 the documentation that was going into the 14 file before a threshold increase was 15 granted, right? We just saw that with 16 example of four different distribution 17 centers as well as the internal 18 discussion from Mr. Gustin, right? 19 A. You're talking about the 20 e-mail from Gustin to these folks? 21 Q. Let me strike that and make 22 it simpler for you. 23 This is dated in October of 24 2008, right?</p>
Page 331	Page 333
<p>1 their threshold would be, they'll meet 2 their threshold if they continue -- the 3 sales continue the way they are, right? 4 That's what she was saying? 5 A. Yes. 6 Q. There's a concern -- 7 McKesson is reaching out to the customer 8 saying, "We are concerned that you're 9 going to reach your threshold. And in 10 order to avoid an omit, can you give us a 11 reason as to why we should increase your 12 threshold?" 13 MR. SCHMIDT: Objection. 14 Foundation. 15 BY MR. BOWDEN: 16 Q. Is that correct? 17 A. I think there was -- 18 MR. SCHMIDT: Same 19 objection. 20 THE WITNESS: I think there 21 was a working relationship between 22 this account manager and the RNA 23 account. And there was 24 communication back and forth in</p>	<p>1 A. I see that. 2 Q. This is after the DEA 3 settlement of May of 2008 where they are 4 making you enter into the CSMP program, 5 right? 6 A. Yes. 7 MR. SCHMIDT: Object to the 8 characterization. 9 BY MR. BOWDEN: 10 Q. And as part of that CSMP 11 program, it's going to require that you 12 get to know your customer, right? 13 A. Yes. 14 Q. And it's going to require 15 that you get additional documentation and 16 do interviews, Level 1 reviews, do 17 follow-up phone calls before you can 18 justify a threshold increase, correct? 19 A. We would do that kind of 20 information. In fact, I would typically 21 speak to one of the people at the chain 22 in order to understand what was going on. 23 Q. Okay. Let's look at this 24 one here.</p>

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1 So Ms. Cook reached out to
2 Giant Eagle and said that there's going
3 to be -- some stores are going to be
4 going through their thresholds. The
5 response from Giant Eagle says, "Sabrina,
6 we need to bump stores" -- and he lists
7 out six stores -- "up by 20 percent due
8 to high volume growth. These are all
9 either new stores or stores running
10 promotions causing increased volume."
11 Right?

12 A. Yes.

13 Q. And we know that at some
14 point in 2011, at least by then, that the
15 internal discussion is that increases in
16 business alone are not sufficient to
17 justify changes to the thresholds, right?

18 MR. SCHMIDT: Object to the
19 characterization.

20 THE WITNESS: Well, you have
21 to understand too that our
22 relationship with the RNAs was
23 that in many cases, they -- they
24 might source some of the controls

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1 through their own warehouses, in
2 some cases acquire them through
3 the manufacturer.

4 And there was a limited
5 opportunity for us to understand
6 the bigger picture with regard to
7 the RNAs because of the way the
8 sourcing reflected their
9 purchasing versus their -- overall
10 Rx versus controls.

11 BY MR. BOWDEN:

12 Q. All right. So I'm just
13 trying to understand this here. So
14 you're telling me that for the national
15 retail accounts, that some of the
16 controls were sourced through their own
17 warehouses, right?

18 A. Yes.

19 Q. And because of that it made
20 it difficult for you to understand how
21 much of the product they were actually
22 using, or purchasing on a monthly basis?
23 Is that what you're saying?

24 MR. SCHMIDT: Object to

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1 characterization.

2 THE WITNESS: I think that
3 we would see what we were selling
4 to them. But we didn't have their
5 dispensing information.

6 BY MR. BOWDEN:

7 Q. Okay. And you didn't ask
8 for it, in this case, right, for Giant
9 Eagle?

10 A. We -- we generally did not
11 have access to the overall dispensing of
12 the RNAs.

13 Q. But you also didn't ask for
14 it, correct?

15 A. It was not something that --
16 I think there were agreements at Don's
17 level on how that process would be
18 effected.

19 Q. Okay. Ms. Cook then
20 forwards this e-mail on to you, and says,
21 "Bill, please see attached increase" --
22 "threshold increase forms. Thanks." You
23 respond back the next day simply stating,
24 "Done. Jim, Blaine, please file for your

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1 records. Bill."

2 Do you see that at the very
3 top?

4 A. Yes.

5 Q. And you agree with me that
6 there's -- there's no e-mail here from
7 you asking for additional information,
8 right?

9 A. Right.

10 Q. There's no e-mail here from
11 you asking for a follow-up or additional
12 prescription data, anything that would
13 help you do a further analysis, correct?

14 A. Right.

15 Q. You make your decision
16 solely upon the TCR forms that are
17 attached to Ms. Cook's e-mail, correct?

18 MR. SCHMIDT: Objection.
19 Foundation.

20 THE WITNESS: I'm not sure
21 what else I might have done. I
22 might have reached out to Greg
23 Carlson. I'm not sure if I did.

24 BY MR. BOWDEN:

<p style="text-align: right;">Page 338</p> <p>1 Q. You're not sitting here 2 telling me today that's what you did? 3 A. I'm not saying that I know 4 what I did that day. 5 Q. Okay. And we've already 6 covered previously in your deposition 7 that what documentation you relied upon, 8 you didn't -- you didn't actually keep 9 that in the file either. If the 10 documentation doesn't exist, you don't 11 keep a list of what you actually would 12 have done to approve or deny a TCR form, 13 correct? 14 MR. SCHMIDT: Objection. 15 Compound. Characterization. 16 BY MR. BOWDEN: 17 Q. Isn't that what you 18 testified to earlier? 19 A. Could you repeat that? 20 MR. SCHMIDT: Same 21 objection. 22 BY MR. BOWDEN: 23 Q. We have no way of verifying 24 that you did that?</p>	<p style="text-align: right;">Page 340</p> <p>1 change. Per Greg Carlson, director of 2 pharmacy sourcing, please increase due to 3 running promotions causing increased 4 volume," right? 5 A. Yes. 6 Q. Another way of saying an 7 increase in business, right? 8 A. I believe so. 9 Q. Okay. "McKesson use only." 10 Do you see where that's 11 written underneath? 12 A. Yes. 13 Q. "Date of last visit site" -- 14 "date of last visit site observation." 15 What does it say there? 16 A. It's blank. 17 Q. "Questionnaire and 18 declaration on file." 19 What does it say there? 20 A. It's blank. 21 Q. "Permanent or temporary 22 threshold change." 23 What did you put down? 24 A. It says permanent.</p>
<p style="text-align: right;">Page 339</p> <p>1 A. I know I spoke to Greg 2 Carlson. I'm not sure if I spoke to him 3 at this point. 4 Q. Right. But what we do know 5 is that on October 22nd at 5:12 p.m., 6 Ms. Cook sends to you these TCR forms and 7 says, "Bill, please see attached." And 8 the next morning you respond, "Done," 9 right? That's what the document says, 10 correct? 11 A. Yes. I see that. 12 Q. And so if we turn to the 13 third page of this document, we are going 14 to see those TCR forms for these six 15 stores. So if you'll go to the third 16 page, please. 17 A. .3? 18 Q. Yes. This says, "Threshold 19 change form. Controlled substance 20 request 9193. Increase amount 21 20 percent." 22 Do you see that? 23 A. Yes. 24 Q. And it says, "Reason for</p>	<p style="text-align: right;">Page 341</p> <p>1 Q. "Has threshold change" -- 2 "been changed on the same product within 3 the last three months?" 4 What does it say there? 5 A. It's blank. 6 Q. Current threshold. Is there 7 any information there? 8 A. No. 9 Q. Approved by date, has any of 10 that been completed for this store 11 either? 12 A. No. 13 Q. And so can you please tell 14 us what promotions in your mind would be 15 valid for increasing oxycodone 16 thresholds? 17 A. I don't know. 18 Q. Can you name any? 19 A. Hydrocodone or oxycodone? 20 Q. Opioids in general. I'm 21 asking a general statement to you. What 22 promotion could a pharmacy be running 23 which in your mind would justify a 24 threshold increase for that pharmacy?</p>

<p style="text-align: right;">Page 342</p> <p>1 A. I'm not sure. They might be 2 experiencing higher -- a higher store 3 volume. 4 Q. So people would come in, 5 higher store volume, for opioid 6 prescriptions? 7 A. No, I mean just overall 8 customer volume. 9 Q. Okay. And that would 10 typically reflect in overall prescription 11 volume going up as well, correct? 12 A. I would think so. 13 Q. Right. But that's not 14 something you asked for in this case, to 15 see if that, in fact, was occurring, 16 right? 17 MR. SCHMIDT: Objection. 18 Foundation. 19 THE WITNESS: I don't see 20 where I did ask for it. 21 BY MR. BOWDEN: 22 Q. Okay. Let's turn to .5. 23 There's a threshold change 24 form for another one of the six stores,</p>	<p style="text-align: right;">Page 344</p> <p>1 had done a site visit observation, right? 2 MR. SCHMIDT: Object to the 3 characterization, foundation. 4 BY MR. BOWDEN: 5 Q. Have I misstated that? Is 6 there a single one of these stores in 7 this exhibit that we're going through 8 where McKesson said they have made a last 9 site visit observation? 10 A. I don't see it documented 11 here. 12 Q. Or where there's a 13 questionnaire or declaration on file. Do 14 you see that? 15 MR. SCHMIDT: Object to the 16 characterization. 17 THE WITNESS: I believe for 18 the RNAs the -- the questionnaire 19 was completely corporately. 20 BY MR. BOWDEN: 21 Q. Okay. So if it's a -- if 22 it's an ISMC for example, a small 23 independent or medium-size store, would 24 those be completed on an individual store</p>
<p style="text-align: right;">Page 343</p> <p>1 right? 2 A. Yes. 3 Q. Would you agree with me that 4 it appears to simply be copy and pasted 5 from the prior one? 6 The only substantive 7 information filled out is, "Per Greg 8 Carlson, please increase due to running 9 promotions causing increased volume." 10 Right? 11 A. I see that. 12 Q. And we -- we've already 13 covered that you don't know what those 14 promotions were, correct? 15 A. I don't. 16 Q. Okay. And if you go to .7. 17 I'm going to ask you to flip through them 18 with me. .7, .9, .11, .13. 19 Do you agree with me that 20 for each of these six stores it's the 21 same information provided to you? 22 A. Yes. 23 Q. And not a single one of 24 these stores do you note that McKesson</p>	<p style="text-align: right;">Page 345</p> <p>1 basis? 2 A. The questionnaire? 3 Q. Mm-hmm. 4 A. I believe so. 5 Q. But an exception's made if 6 they become a national retail account? 7 A. The national retail accounts 8 had corporate oversight of controls 9 monitoring. And those were the people 10 with whom we typically interacted with 11 when it came to the request and 12 consideration of threshold changes. So I 13 typically would not call the PIC at a 14 given store and ask. It was based on our 15 relationship with, in this case Giant 16 Eagle, and how we interacted with them. 17 Q. So based on the relationship 18 that you had with Giant Eagle, when they 19 reached out to you and said, "We need a 20 20 percent increase due to high volume 21 growth," meaning business increase, that 22 was sufficient reason for you to grant 23 it, right? 24 MR. SCHMIDT: Object to the</p>

<p style="text-align: right;">Page 346</p> <p>1 characterization.</p> <p>2 THE WITNESS: I think that I</p> <p>3 had talked with -- I have</p> <p>4 interactions with both Sabrina and</p> <p>5 with the RNA VP of what was going</p> <p>6 on here. I had been introduced to</p> <p>7 Carlson. I had interaction with</p> <p>8 him.</p> <p>9 BY MR. BOWDEN:</p> <p>10 Q. You're telling me overnight</p> <p>11 you had interaction with him?</p> <p>12 A. No --</p> <p>13 MR. SCHMIDT: Just a second.</p> <p>14 Were you finished with your</p> <p>15 answer?</p> <p>16 THE WITNESS: No, not yet.</p> <p>17 BY MR. BOWDEN:</p> <p>18 Q. I'm sorry, go ahead, sir.</p> <p>19 A. I was -- I had conversations</p> <p>20 with Carlson and other Giant Eagle people</p> <p>21 in which we -- we took a look at patterns</p> <p>22 and evaluated it. I'm not sure if we did</p> <p>23 it as early as 2008. But it was</p> <p>24 something that we did do.</p>	<p style="text-align: right;">Page 348</p> <p>1 McDonald is sending this out to PGRDRC.</p> <p>2 Are you a part of that list, sir?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So this is an e-mail</p> <p>5 that you got and the subject is threshold</p> <p>6 change requests. And it says, "I have</p> <p>7 noticed a trend with TCR that needs to be</p> <p>8 addressed. The information submitted on</p> <p>9 the TCR is extremely important to our</p> <p>10 documentation process. When I screen the</p> <p>11 TCR I'm assuming some steps have been</p> <p>12 completed. First and foremost is direct</p> <p>13 contact with the customer. The contact</p> <p>14 is required. Be sure you are noting who</p> <p>15 you spoke with when completing the</p> <p>16 documentation portion. Ask for a</p> <p>17 specific reason for the increase in</p> <p>18 usage. Business growth should be</p> <p>19 accompanied by specific examples of what</p> <p>20 is generating that growth. For instance,</p> <p>21 a competitor, Tom's Drug, went out of</p> <p>22 business and was located in the area.</p> <p>23 Another example was a new doctor, with</p> <p>24 their DEA number, is in the building and</p>
<p style="text-align: right;">Page 347</p> <p>1 Q. Okay. But in -- in this</p> <p>2 example of these six stores in 2008, when</p> <p>3 you are reviewing it, all you took was at</p> <p>4 face value they had a business increase</p> <p>5 and you approved the 20 percent increase</p> <p>6 in the threshold as a result; is that</p> <p>7 correct?</p> <p>8 MR. SCHMIDT: Object to</p> <p>9 characterization.</p> <p>10 THE WITNESS: Based on the</p> <p>11 TCRs that I got we did go ahead</p> <p>12 and provide them with an increase.</p> <p>13 BY MR. BOWDEN:</p> <p>14 Q. Okay. You can go ahead and</p> <p>15 set that one aside, sir.</p> <p>16 I'm going to mark for you</p> <p>17 what will be Exhibit Number 30 to your</p> <p>18 deposition. Going to be P-1.1936.</p> <p>19 (Document marked for</p> <p>20 identification as Exhibit</p> <p>21 Mahoney-30.)</p> <p>22 BY MR. BOWDEN:</p> <p>23 Q. And this is an e-mail from</p> <p>24 2012. You see there at the bottom, Tom</p>	<p style="text-align: right;">Page 349</p> <p>1 writing a high volume of oxycodone</p> <p>2 scripts. General terms like 'business</p> <p>3 growth' or 'customer hit their</p> <p>4 thresholds' are not acceptable."</p> <p>5 Do you see where that is?</p> <p>6 A. Yes.</p> <p>7 Q. And now this is 2012, which</p> <p>8 would have been before Mr. Boggs came on</p> <p>9 board. Had there been anything that</p> <p>10 changed in the CSMP program between 2008</p> <p>11 and 2012 that would make that a new</p> <p>12 requirement?</p> <p>13 A. This appears to be an e-mail</p> <p>14 that he was sending to the sales team out</p> <p>15 in the west. So I'm not sure what he was</p> <p>16 observing from the TCRs that he was</p> <p>17 reviewing that caused him to do this,</p> <p>18 but --</p> <p>19 Q. Okay. Based on that</p> <p>20 standard though, the one that we just</p> <p>21 reviewed, the Giant Eagle ones, of which</p> <p>22 you approved, they would not -- they</p> <p>23 would not be acceptable, right, those TCR</p> <p>24 forms, correct?</p>

<p style="text-align: right;">Page 350</p> <p>1 A. I think that the general 2 terms, especially with the RNA, was 3 something that maybe we accepted early on 4 but not later on.</p> <p>5 Q. I'm not sure that answers my 6 question though. They are saying 7 business growth or customer hit their 8 threshold, those are not acceptable 9 reasons for approving a TCR form. That's 10 exactly what we just saw in the Giant 11 Eagle TCR forms that you just approved, 12 correct, in 2008?</p> <p>13 MR. SCHMIDT: Object to the 14 characterization.</p> <p>15 THE WITNESS: I think that 16 what he's saying here is that we 17 need more specific information 18 related to things like business 19 growth.</p> <p>20 BY MR. BOWDEN: 21 Q. Right. More specific 22 information than what was contained in 23 the TCR forms of which you were 24 approving, correct?</p>	<p style="text-align: right;">Page 352</p> <p>1 were making requests based on what 2 they were seeing and we -- I -- I 3 did grant those requests.</p> <p>4 BY MR. BOWDEN: 5 Q. Okay. Okay. And at the top 6 you can see where Dave Gustin responds, 7 including you individually, it says, "May 8 I suggest a name and someone to channel 9 through, so we don't have things being 10 shared that may not be agreed upon by the 11 rest of the team (unlike the below which 12 is something we all agreed upon)," 13 correct?</p> <p>14 That's what it says? 15 A. That's what it says. 16 Q. And you agree with that, 17 what was stated below in that e-mail, 18 correct?</p> <p>19 A. Well, yeah. We -- we always 20 need to make sure that we are 21 characterizing or quantifying the 22 information to the best of our ability. 23 Q. Did you also have Target as 24 one of your national accounts?</p>
<p style="text-align: right;">Page 351</p> <p>1 MR. SCHMIDT: Object to the 2 characterization.</p> <p>3 THE WITNESS: For example, 4 some of the -- some of the 5 enhanced data, if you will, what 6 we would get would be, okay, we 7 had been doing 100 scripts a day 8 in such and such a time frame. 9 But in the last three months we 10 have risen to 130 scripts per day. 11 That -- that kind of 12 characterization, rather than just 13 a generic business growth.</p> <p>14 BY MR. BOWDEN: 15 Q. Right. And that -- that 16 type of generic business growth is the 17 only reason you had for approving the 18 Giant Eagle increases, true?</p> <p>19 MR. SCHMIDT: Object to 20 characterization.</p> <p>21 THE WITNESS: I think -- I 22 think with Giant Eagle we had an 23 ongoing relationship with the -- 24 the team at Giant Eagle. They</p>	<p style="text-align: right;">Page 353</p> <p>1 A. I may have at one point. 2 But not for a long period of time.</p> <p>3 Q. So as part of the CSMP 4 process, you guys spent a lot of money on 5 getting a software program in place to 6 track thresholds, right?</p> <p>7 A. I'm not sure what you're 8 talking about.</p> <p>9 Q. Let me restate that then. 10 So as part of the CSMP program or CSMP 11 process, you had computer programs that 12 would track customers, how much they were 13 getting filled, and whether or not they 14 were approaching their thresholds, right?</p> <p>15 A. Yes. 16 Q. Okay. And there were some 17 problems with that program, right?</p> <p>18 A. I -- there were at times. 19 Q. And that always wasn't 20 accurate, right? It would lead to people 21 getting fills over and beyond their 22 thresholds, correct?</p> <p>23 MR. SCHMIDT: Object to the 24 characterization.</p>

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1 THE WITNESS: I'm curious
 2 about what you're referring to.
 3 BY MR. BOWDEN:
 4 Q. Okay. You don't recall any
 5 instances in which thresholds were filled
 6 or gone above -- customers went above
 7 their thresholds due to deficiencies in
 8 the tracking software you used?
 9 A. I can't recall specifically
 10 aside from a couple of events.
 11 Q. Okay. I'll hand you what
 12 I'm marking Exhibit 31. It's P1.1979.
 13 (Document marked for
 14 identification as Exhibit
 15 Mahoney-31.)
 16 BY MR. BOWDEN:
 17 Q. Why don't you go ahead and
 18 flip to the last page of this document.
 19 This is an e-mail from Edwin Cabrera.
 20 Are you with me on the last page, sir?
 21 A. Yes.
 22 Q. And at the bottom it says
 23 that he's an account manager, RNA support
 24 solutions. Again, that customer service

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1 team, right?
 2 A. Yes.
 3 Q. And he's reaching out to
 4 Connie Chai, and -- who's at Target,
 5 correct?
 6 A. Apparently.
 7 Q. It says, "Connie, please let
 8 us know if any increases are necessary.
 9 Thanks, Edwin."
 10 Do you see that?
 11 A. Yes.
 12 Q. And so this is again an
 13 example of where McKesson is reaching out
 14 proactively to see if the customer needs
 15 to have their threshold increased, not
 16 the other way, the customer reaching out
 17 to have their threshold increased, right?
 18 MR. SCHMIDT: Objection.
 19 Foundation.
 20 THE WITNESS: I think he's
 21 providing the customer with some
 22 information and offering them an
 23 opportunity to do a TCR.
 24 BY MR. BOWDEN:

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1 Q. Okay. So he's -- this is
 2 McKesson reaching out to ask the customer
 3 to complete a TCR?
 4 MR. SCHMIDT: Objection.
 5 Foundation.
 6 THE WITNESS: Can you repeat
 7 that again?
 8 BY MR. BOWDEN:
 9 Q. Sure. Let's just turn to
 10 the third page. Go back. Edwin is now
 11 writing to Dave Gustin, who is one of
 12 your DRA counterparts, right? He says,
 13 "Good morning, Dave. The CSMP report is
 14 showing that some Target stores are able
 15 to purchase product above their threshold
 16 limits. Doesn't the system prevent a
 17 store once they hit 100 percent?"
 18 Do you see that?
 19 A. I do.
 20 Q. And then Dave forwards it on
 21 to the internal team, right, that PGRDRC,
 22 which you're a member of that Listserv.
 23 It says, "Team, anyone else seeing this?"
 24 And your response is, "Keith

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1 shared with me earlier in the month that
 2 it is the result of a timing conversion
 3 issue related to the new Virginia
 4 distribution center."
 5 Do you see that?
 6 A. Yes.
 7 Q. So this was an issue that
 8 you were aware of. This is your -- your
 9 response is dated April 27th. And you're
 10 saying that you were made aware of it
 11 earlier in the month, right?
 12 A. Yes.
 13 Q. Okay. And so, in fact, you
 14 actually respond within an hour of Dave
 15 sending out his e-mail when he asks, "Has
 16 anyone else seen this?" You were already
 17 aware of the issue, correct? You had
 18 been informed of it earlier that month,
 19 right?
 20 A. But I think this was
 21 coincident with the launch of a new
 22 distribution center in Fredericksburg,
 23 Virginia. So the migration may have --
 24 may have caused some reset issues with

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1 relationship to the thresholds.
 2 Q. Okay. I see. So we were
 3 talking earlier, during the 2011 audit
 4 you said there was about 28 distribution
 5 centers throughout the U.S., correct?
 6 A. Approximately.
 7 Q. How many distribution
 8 centers are there as we sit here today?
 9 A. My estimate would be around
 10 28 plus or minus one or two.
 11 Q. Okay. So you're opening up
 12 a new distribution center in 2012. And
 13 you were made aware earlier in that month
 14 that the opening of that new distribution
 15 center may result in pharmacies being
 16 able to fill orders above their threshold
 17 limits, correct?
 18 A. I don't know the context of
 19 everything. But I saw this. I'd had a
 20 conversation with Keith, a technical guy
 21 on our team. He had mentioned that there
 22 might be some issues.
 23 Q. Okay. Well, I see that your
 24 response is that you're aware of it. But

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1 I don't see anything that says that we
 2 shouldn't fill these orders, right?
 3 A. I'm not sure of the context
 4 of -- what the entire thing is or even
 5 whether they received more than the 60
 6 it's reflecting.
 7 Q. Okay. Let's go on to Page 2
 8 of this e-mail.
 9 You see where Michael
 10 Oriente -- am I pronouncing that --
 11 A. Correct.
 12 Q. Oriente. Another one of the
 13 directors of regulatory affairs says,
 14 "The first week of April was not captured
 15 in CSMP for the VA" -- Virginia --
 16 "distribution center. IT went back and
 17 captured what was shipped and dumped it
 18 in. If what was purchased during the
 19 first week and what they had purchased
 20 the next two weeks was greater than the
 21 threshold, the percentage went over
 22 100 percent."
 23 Do you see that?
 24 A. I do.

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1 Q. And so that was an issue
 2 that you knew was going to occur -- you,
 3 individually, as well as at least Michael
 4 Oriente another one of the --
 5 A. What makes -- why would you
 6 say that I would know?
 7 Q. You said that you knew.
 8 MR. SCHMIDT: Object to the
 9 characterization.
 10 THE WITNESS: Well, I think
 11 what happened here, which Michael
 12 just explains, is that they
 13 reached those amounts because the
 14 first week hadn't been captured,
 15 effectively. They did it so that
 16 the system would reflect it, but
 17 when they did for these particular
 18 base codes and customers, they
 19 already exceeded and they wouldn't
 20 be able to order any more.
 21 BY MR. BOWDEN:
 22 Q. Right. But Target, on the
 23 second e-mail that -- second e-mail on
 24 this chain that we read, Target is

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1 actually reaching out to McKesson and
 2 saying, "How is this possible? If they
 3 reached their threshold, wouldn't they be
 4 cut off?" And then internally, the
 5 discussion is, "Oh, no, they wouldn't be
 6 cut off, at least during this transition
 7 process. And we know the reason why is
 8 that the first week of information wasn't
 9 being captured," right? That's what's
 10 being said there?
 11 A. And then it was added, and
 12 that's why the accumulated quantities
 13 reached those levels.
 14 Q. Right. But as part of your
 15 due diligence process, you didn't tell
 16 them to stop, to not fill it. You simply
 17 had a discussion internally saying, "I'm
 18 aware of the issue," correct?
 19 A. I was just trying to
 20 contribute to the understanding of what
 21 was going on. I think, was it Dave or
 22 Edwin, and the customer pointed it out.
 23 I think that Michael -- I think that Dave
 24 was saying, "Has anyone seen this? Do we

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1 know what the cause is?" And I
2 contributed what I knew. Michael had
3 more information. That was his DC.
4 So he -- he was aware of it.
5 And it's an example of one of the few
6 things where there were glitches in the
7 system.
8 Q. There's glitches in the
9 system would mean that OxyContin or
10 opioids in general, more than what a
11 company or a pharmacy was allowed to
12 get -- strike that.
13 These glitches in the system
14 meant that some pharmacies were able to
15 fill over and beyond what their threshold
16 limits were, correct?
17 MR. SCHMIDT: Objection.
18 Characterization.
19 THE WITNESS: They're
20 glitches they are enumerated in
21 the 2017 agreement that
22 acknowledge that system glitches
23 can happen.
24 BY MR. BOWDEN:

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1 Q. We're going to cover that in
2 a little bit.
3 A. Okay.
4 Q. But the end result of that
5 is that these glitches means more drugs
6 getting to the pharmacy level and more
7 drugs potentially being diverted,
8 correct?
9 MR. SCHMIDT: Objection.
10 Speculation.
11 THE WITNESS: I'm not sure
12 exactly what happened. I do see
13 that the accumulation for those
14 months was in excess of the
15 threshold.
16 BY MR. BOWDEN:
17 Q. Okay. Why don't you go to
18 the first page. And this is Edwin
19 talking with Dave Gustin and Kathie
20 Oliverson. It says, "Dave, thanks for
21 the information. I pulled a purchase
22 history for the Target account. I'm
23 still confused because the CSMP report
24 shows 8,844 units purchased, which is

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1 already 844 units above their monthly
2 allocation. The BO reports showed a
3 total of 11,757 units purchased. I
4 wanted to make sure that you were aware."
5 Do you see where that's
6 written?
7 A. I see it.
8 Q. And so if the CSMP are
9 showing 8,844 units when they have a
10 threshold of 8,000, that would be 10
11 percent above their threshold, right?
12 That would throw -- should throw a red
13 flag by itself, right?
14 A. Normally the system would
15 not permit the sale or the processing of
16 an addition above the threshold limit.
17 Q. And the threshold limit that
18 you had set -- not you individually but
19 McKesson had set internally was 10
20 percent, right?
21 MR. SCHMIDT: Objection.
22 Vague.
23 THE WITNESS: I think what
24 you're trying to say is the

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1 buffer.
2 BY MR. BOWDEN:
3 Q. The buffer, yes, sir. I'm
4 sorry. So the buffer that you had set --
5 that McKesson had set for the thresholds
6 was 10 percent in this time period 2012,
7 right?
8 A. I'm not sure -- I'm not sure
9 exactly what was done with RNA. But
10 there was a buffer included in the
11 initial calculation of thresholds.
12 Q. Okay. Were RNAs given a
13 larger buffer?
14 A. I don't believe so.
15 Q. So maybe I'm just mishearing
16 you. It sounds like you keep carving out
17 RNA as a special -- special type of
18 account. I know they're a national
19 retail account, large chain stores. Was
20 the buffer applied consistently across
21 all customers, or were there exceptions
22 made for retail accounts -- national
23 retail accounts?
24 MR. SCHMIDT: Objection.

<p style="text-align: right;">Page 366</p> <p>1 Object to characterization. I'll 2 move to strike the preamble. 3 THE WITNESS: What's the 4 question? 5 BY MR. BOWDEN: 6 Q. I'll rephrase it since 7 there's an objection. 8 The buffer of 10 percent 9 applied uniformly across the board for 10 all customers? 11 A. I believe so. 12 Q. Would it be appropriate if a 13 customer was a national retail account to 14 make an exception for them to have a 15 larger buffer? 16 MR. SCHMIDT: Objection. 17 Foundation. 18 THE WITNESS: Generally, I 19 don't believe so. 20 BY MR. BOWDEN: 21 Q. And going back to this 22 e-mail, Edwin is telling the regulatory 23 affairs that the CSMP report is showing 24 8,844 units, and the BO report is showing</p>	<p style="text-align: right;">Page 368</p> <p>1 center is opened, are glitches expected? 2 A. I think that -- I'm not sure 3 exactly when the other ones that have 4 been opened were opened. But I think 5 there's always a break-in period. You 6 know, not only from a systems 7 perspective, but operationally as well. 8 Q. Okay. And do you find that 9 acceptable, the break-in period where 10 there might be glitches, is that -- is 11 that just a part of ordinary business for 12 McKesson? 13 MR. SCHMIDT: Object to 14 characterization. 15 THE WITNESS: I think that 16 there is -- there is always a 17 learning curve. When you use new 18 equipment, when you have a new DC. 19 It's -- it's -- it's part of the 20 way operations improves. 21 MR. BOWDEN: I'm about to 22 switch gears. Do you want to take 23 a break? We went 56 minutes. 24 MR. SCHMIDT: Yeah, I just</p>
<p style="text-align: right;">Page 367</p> <p>1 11,757 units, correct? 2 A. Apparently. 3 Q. Yeah, and so there's a -- 4 there's a variance there, a swing, if you 5 will, from the 8,800 to 11,700 of, what, 6 roughly 40 percent? 7 A. I'm not sure what the 8 calculation is. 9 Q. Sure. The point being that 10 the system, the information that they 11 have, the tools available to determine 12 how much OxyContin or opioids are going 13 out, you are not aware based on that 14 system of what the true number is going 15 out to Target at that time, correct? 16 MR. SCHMIDT: Objection. 17 Characterization. 18 THE WITNESS: I'm not sure. 19 I don't see the rest of the report 20 over here. This is something that 21 Edwin ran, and I'm not sure -- I 22 don't see the quantities so... 23 BY MR. BOWDEN: 24 Q. When a new distribution</p>	<p style="text-align: right;">Page 369</p> <p>1 figure -- don't want to be here 2 late into the night. 3 MR. BOWDEN: That's fine. I 4 just want to get some water. 5 THE VIDEOGRAPHER: Okay. 6 Stand by, please. The time is 7 4:01 p.m. Going off the record. 8 (Brief recess.) 9 THE VIDEOGRAPHER: We are 10 back on the record. The time is 11 4:16 p.m. 12 BY MR. BOWDEN: 13 Q. All right, Mr. Mahoney. 14 When we left off, we were talking about a 15 system glitch. Now I want to switch 16 gears and move into a different section. 17 Were there times during your 18 employment at McKesson or while you were 19 there in 2008 time period where McKesson 20 rushed to fill orders prior to the 21 enactment of new controls being in place? 22 Do you recall anything like that? 23 A. Rushed to fill orders prior 24 to new controls being put in place?</p>

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1 Q. Right.
2 A. I'm having a hard time
3 imagining what you're talking about.
4 Q. Okay. Well, just in
5 general, though, having controls in place
6 to make sure that opioids get into the
7 right hands is a good thing, right?
8 A. Yes.
9 Q. It's a good thing because
10 opioids can have a dramatic impact on
11 people's lives, addiction, injury,
12 potentially death, right?
13 A. I have used opioids myself
14 to good effect.
15 Q. Right. But that's not what
16 the DEA was concerned with, was it? It
17 wasn't people such as yourself who might
18 take it for a brief period of time and
19 then let go of it. It was for the
20 epidemic that had been brewing since the
21 2000s, right?
22 MR. SCHMIDT: Objection.
23 THE WITNESS: I've had
24 interactions actually recently

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1 with the DEA around Hurricane
2 Michael in which they wanted to
3 make sure that people had access
4 to their opioids.
5 BY MR. BOWDEN:
6 Q. Okay. And -- okay. But
7 you're talking about something that's
8 going to be an act of God or a natural
9 disaster, making sure that the support is
10 there so that people get medication who
11 were prescribed medication and should be
12 legitimately taking it, right?
13 A. I'm sorry. Can you repeat
14 the last --
15 Q. What you're talking about
16 anecdotally is that there might be very
17 narrow circumstances in which the DEA
18 might want drugs to go out there to make
19 sure that people with legitimate medical
20 needs, that their needs are met, correct?
21 A. I think -- I think that the
22 DEA understands that it's gray in terms
23 of determining, especially from a
24 distributor's point of view, how hard it

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1 is to determine whether something is for
2 legitimate medical purpose or it's for
3 some other illicit purpose. And that's
4 why we do what we do.
5 Q. Okay. Well, I'm going to
6 hand you what I've marked as Exhibit 32
7 to your deposition. This would be
8 P1.1845.
9 (Document marked for
10 identification as Exhibit
11 Mahoney-32.)
12 BY MR. BOWDEN:
13 Q. And you know that McKesson
14 also distributes methadone, right?
15 A. Yes.
16 Q. And in 2008, McKesson was
17 distributing methadone, right?
18 A. Yes.
19 Q. Okay. And early in that
20 year, you were informed that the DEA was
21 going to be issuing specific guidelines
22 on who could purchase methadone, right?
23 A. I'm a little bit confused
24 here, because I think that what you're

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1 talking about -- okay, yes.
2 Q. Okay. So let's start off on
3 P1.1845. If you can pull the first full
4 paragraph there, under validating
5 customers. In fact, let's get the title
6 up there too.
7 A. Yes.
8 Q. It says, "Validating
9 customer authorization to purchase
10 methadone, 40 milligrams. The DEA has
11 specific guidelines detailing who can
12 purchase methadone, 40 milligrams. Due
13 to the potential for abuse and the number
14 of deaths due to overdose associated with
15 this drug, it can only be sold to
16 customers who are designated as hospitals
17 or methadone treatment centers, also
18 known as MTP, chemical abuse, or detox
19 centers."
20 Do you see where that's
21 written?
22 A. Yes.
23 Q. Okay. And so you would
24 agree with me that methadone is one of

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1 those drugs that can also lead to -- has
2 potential for abuse and can lead to death
3 due to overdose, correct?
4 A. Yes.
5 Q. Okay. And McKesson was told
6 that DEA guidelines are coming out that
7 are going to limit the people that you
8 provide these to, correct? The types of
9 customers, I should say, that you'll be
10 able to fill methadone orders for, right?
11 A. I'm not sure of the date of
12 it. But I remember it happening in
13 pretty short order when it did happen.
14 Q. Right. So let me hand you
15 what I'm marking as Exhibit 33, which
16 will be P1.1848.
17 (Document marked for
18 identification as Exhibit
19 Mahoney-33.)
20 MR. SCHMIDT: Can we put
21 this to the side, or do you want
22 him to keep it?
23 MR. BOWDEN: He can probably
24 put it to the side. That's fine.

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1 BY MR. BOWDEN:
2 Q. Now, in January of 2008,
3 were you still the distribution center
4 manager for Lakeland, Florida?
5 A. We -- we -- I was actually
6 doing both jobs at the time.
7 Q. Okay. So you were filling a
8 dual -- dual capacity?
9 A. Well, they had announced who
10 the new DCM was in Lakeland. But he was
11 in the process of coming --
12 Q. Was it still your
13 responsibility -- were you still
14 responsible for every pill that left the
15 distribution center in January 2008?
16 A. I was helping with
17 transition. The person who succeeded me
18 was actually the responsible party.
19 Q. Okay. All right. So let's
20 take a look at this document. At the top
21 you can see where it says, "Methadone
22 block activation timeline."
23 Do you see that?
24 A. Yes.

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1 Q. And it says Friday,
2 January 4, 2008. Does that help you
3 remember the time in which the methadone
4 block was coming out?
5 A. Yeah, it does actually.
6 Q. I figured it would. All
7 right. So it says, "10:30 a.m., Pacific
8 standard time, regional regulatory
9 directors notified of activation.
10 "12:00 a.m., John Bonner
11 updates methadone items in DITM.
12 "10:30 p.m., orders
13 submitted after this time will be subject
14 to blocking."
15 Do you see that?
16 A. Yes.
17 Q. And so you understand that
18 to be, as a person who was running a
19 distribution center at that time, that
20 orders submitted after that time would be
21 subject to blocking, right?
22 A. Yes.
23 Q. And so it says, "Saturday,
24 January 5th, 2008, any orders that were

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1 transmitted before the Friday,
2 January 4th, 10:30 p.m. cutoff may have
3 methadone in them and can be filled
4 regardless of eligibility."
5 Do you see that?
6 A. Yeah.
7 Q. Okay. And we understand --
8 you understand from looking at that last
9 document --
10 MR. BOWDEN: In fact,
11 Michael, can we do a split screen
12 with the top paragraph of the last
13 document?
14 If you can put underneath
15 that, yeah, put that at the top
16 for our witness to see.
17 And then can you pull out
18 Monday, Tuesday and special
19 consideration on the other one?
20 That's fine for right now.
21 BY MR. BOWDEN:
22 Q. So I want you to look along
23 with me here. As the timeline is going
24 on, it says Monday, January 7, 2008, "Any

<p style="text-align: right;">Page 378</p> <p>1 orders that were transmitted before 2 Friday cutoff may have methadone in them 3 and can be filled regardless of 4 eligibility. 5 "Customers who ordered after 6 10:30 on Friday will be subject to 7 blocking and may be rejected if 8 ineligible." 9 Do you see that? 10 A. Yes. 11 Q. "All orders will be flushed 12 through and we should be filling only 13 eligible customers." 14 That's what it says for 15 Tuesday, right? 16 A. Yes. 17 Q. Then it says special 18 considerations. 19 MR. BOWDEN: And can you put 20 the block quote from the other 21 paragraph from the other exhibit 22 above this one, please? Above 23 special considerations? 24 That's good enough.</p>	<p style="text-align: right;">Page 380</p> <p>1 says? 2 A. I think what's happened -- 3 MR. SCHMIDT: Same 4 objection. 5 THE WITNESS: I believe what 6 it says is that if there is an 7 order in the queue as of Friday, 8 then those are eligible to be 9 filled. 10 BY MR. BOWDEN: 11 Q. I see. 12 A. And that includes ones that 13 may not have been filled on Monday, but 14 instead were filled on Tuesday. 15 Q. Okay. So going back to 16 P-1.1845, that top paragraph. You 17 understand that the -- the purpose of 18 this methadone block was due to the 19 potential for abuse and the number of 20 deaths due to the overdose associated 21 with this drug, and because of that, 22 they're saying it can only be sold to 23 customers who are designated as hospitals 24 or methadone treatment centers, right?</p>
<p style="text-align: right;">Page 379</p> <p>1 BY MR. BOWDEN: 2 Q. While he's doing that we'll 3 go ahead and read it. 4 "Special considerations. If 5 transmitted orders are held over from 6 block" -- "from before the blocking, they 7 may still have methadone on them in error 8 when they are released for filling. Go 9 ahead and fill these orders regardless of 10 eligibility." 11 Do you see that there? 12 A. I see that. 13 Q. And so what's being said 14 here internally at McKesson is go ahead 15 and fill orders, even if they have 16 methadone in them in error. And that's 17 in response to this block activation 18 timeline, right? There's a hard cutoff, 19 Friday night, but go ahead and fill it, 20 regardless of eligibility, right? 21 MR. SCHMIDT: Objection. 22 Compound. 23 BY MR. BOWDEN: 24 Q. That's what this document</p>	<p style="text-align: right;">Page 381</p> <p>1 You understand that's the 2 purpose underlying this activation 3 timeline, correct? 4 A. I see that. 5 Q. Okay. And the special 6 considerations here for McKesson is fill 7 as many orders as you can so long as we 8 can say that they were in before the 9 cutoff timeline, right? 10 MR. SCHMIDT: Objection to 11 the characterization. 12 THE WITNESS: I don't see 13 where -- I don't see where it says 14 fill as many orders as you can. 15 BY MR. BOWDEN: 16 Q. Well, that is the net effect 17 of this, right? You could say that any 18 order that hasn't shipped as of Friday at 19 10:30 p.m. is not going to be filled, is 20 not going to be shipped out even if it's 21 in error -- 22 MR. SCHMIDT: Object to -- 23 object to the characterization. 24 BY MR. BOWDEN:</p>

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1 Q. -- correct?

2 A. The block of methadone 40 is

3 a voluntary thing which is done by the

4 registrant, the distributors in order to

5 address the issues that the DEA was

6 concerned about. I think the exact

7 timing in terms of the bits and bites and

8 how the last orders flow, I mean that

9 is -- it's the way operations is in the

10 real world. I mean...

11 Q. I see. So the way

12 operations work for McKesson in the real

13 world is to have all the orders filled so

14 long as they were received inhouse before

15 10:30 p.m. on Friday, right?

16 A. I think that's the process

17 that is set here.

18 Q. Okay.

19 A. If the customer orders it

20 before a certain time, then the

21 expectation is that it would be filled.

22 Q. Right. But one of the

23 concerns here is that McKesson could be

24 filling orders for people who shouldn't

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1 be recipients of it. Customers who

2 shouldn't be getting these methadone

3 pills because they weren't customers who

4 were designated as hospitals or methadone

5 treatment centers, right? That was one

6 of the concerns?

7 MR. SCHMIDT: Object to the

8 characterization.

9 THE WITNESS: We were

10 complying with the -- the DEA

11 thrust here. And this here is

12 just the nose-on-the-ground level

13 of how this is executed.

14 BY MR. BOWDEN:

15 Q. Okay. So the DEA thrust, if

16 I'm hearing you correctly, is methadone

17 can be addictive, and because of that, we

18 want to make sure that it's only into the

19 hands of the proper parties. If I've

20 stated that correctly, is your

21 understanding?

22 A. When you say methadone

23 generically like that, we still sell

24 methadone to all sorts of RNA independent

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1 retail. It's only in this disc format --

2 Q. Okay.

3 A. -- that is -- it's intended

4 for detox. And we agreed with the DEA's

5 request to go ahead and limit it to those

6 recipients.

7 Q. Okay. Is it true at that

8 time that McKesson was filling orders for

9 people who did not meet what the DEA felt

10 were the proper customers, that being

11 other hospitals or methadone treatment

12 centers?

13 A. I have no idea.

14 Q. And you say you have no

15 idea, is that because McKesson didn't

16 have a system in place to track that?

17 A. Were there individual

18 customers which were permitted to receive

19 methadone?

20 Q. Right.

21 A. Were, in fact, receiving

22 40 milligrams or not?

23 Q. No, whether those were the

24 actual proper customers to be receiving

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1 it, whether they were methadone clinics,

2 whether they were hospitals.

3 MR. SCHMIDT: Objection.

4 Form.

5 THE WITNESS: I'm confused

6 to where you are going or what --

7 what your point is.

8 BY MR. BOWDEN:

9 Q. I'm asking you, as a person

10 who was a director of regulatory affairs

11 and a person who used to be in charge of

12 the Lakeland distribution center, whether

13 McKesson had in place a system that was

14 robust enough to track whether methadone

15 40 milligrams was going to just hospitals

16 and just methadone clinics as of

17 January 2008?

18 A. Yes, we did.

19 Q. Okay. So if that's the

20 case, why would there be a special

21 consideration to fill orders containing

22 methadone that may be in error?

23 MR. SCHMIDT: Object to

24 characterization.

<p style="text-align: right;">Page 386</p> <p>1 THE WITNESS: Again I think 2 this is a transitional explanation 3 for the people who have questions 4 at the DC level of what to do with 5 orders as received and processed 6 in the middle of the night. 7 BY MR. BOWDEN: 8 Q. Okay. So the direction to 9 DC, the distribution centers, is that if 10 you have a concern, if you think there 11 may be an error about whether this is a 12 customer who should be receiving 13 methadone 40 milligrams, so long as that 14 order came in before 10:30 p.m. on 15 Friday, go ahead and fill it, even if it 16 might be in error. That was the message? 17 MR. SCHMIDT: Object to 18 characterization. 19 THE WITNESS: I think first 20 off if you look at the document 21 here it says completed by 22 December 31st -- or January 31st. 23 So we -- we were doing this 24 proactively in order to comply</p>	<p style="text-align: right;">Page 388</p> <p>1 Q. Okay. And that would help 2 also to identify customers who may be 3 considered high risk; is that right? 4 A. It was not 5 customer-oriented. It was more 6 DC-oriented. 7 Q. Okay. 8 A. Internal processes. 9 Q. Okay. So DCs that may be at 10 high risk due to lax adherence to 11 protocols, would that be an example? 12 MR. SCHMIDT: Object to 13 characterization. 14 THE WITNESS: It was a 15 check, not risk-based. But the 16 expectation was that I would go to 17 all the DCs within my area. 18 BY MR. BOWDEN: 19 Q. Okay. Let's turn to the 20 last page of this document. This is an 21 August 5, 2011, e-mail from Tracy Jonas. 22 The subject is STARS validations. 23 And says, "Team, over the 24 next few weeks you will be contacted by</p>
<p style="text-align: right;">Page 387</p> <p>1 with a DEA request to -- to limit 2 these orders to retail accounts. 3 And we did it, you see here, it is 4 detailed on how that is 5 accomplished. 6 BY MR. BOWDEN: 7 Q. Okay. All right. I'm going 8 to hand you what I will mark as 34, 9 Exhibit 34 to your deposition. That will 10 be P-1.1959. 11 (Document marked for 12 identification as Exhibit 13 Mahoney-34.) 14 MR. SCHMIDT: Sorry. 15 MR. BOWDEN: No problem. 16 BY MR. BOWDEN: 17 Q. You had talked previously 18 earlier in the day about STARS, right? 19 Can you explain to us again what that is? 20 A. STARS is an audit process 21 whereby the DRAs would go to the DCs 22 typically within their operating area and 23 do audits of DC's adherence to the 24 requirements.</p>	<p style="text-align: right;">Page 389</p> <p>1 the RCG group to discuss STARS 2 validations regarding your STARS issues 3 rated as 'high' risk from previous 4 audits. As you may recall, all high risk 5 STARS issues require validation of 6 completion by a third party in order to 7 be marked as completed on the issues 8 list." 9 Did I read that correctly? 10 A. Yes. 11 Q. And this is actually one of 12 the STARS audit processes that you were 13 personally involved in, right? 14 A. Yes. 15 Q. And this is also dealing 16 with the Lakeland distribution center, 17 right? 18 A. Let me take a look. 19 Q. Let me direct your -- your 20 attention to the -- if you go back one 21 prior page. You see the e-mail from 22 Benjamin Coppola there, in the middle of 23 the page? 24 A. This 4, Page 4?</p>

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1 Q. Yes.
 2 A. Okay.
 3 Q. It's on the screen for you
 4 as well.
 5 A. Okay.
 6 Q. And it says, "We closed out
 7 the CSMP question back in March. It must
 8 have been missed when the spreadsheets
 9 were going back and forth. We have that
 10 one completed. The methadone clinic
 11 question is not one that we have a solid
 12 way to enforce. There is no systematic
 13 way to identify the methadone clinics
 14 that are serviced by the distribution
 15 centers nor is there a way to track the
 16 signatures through the system. We are
 17 going to accept the failure on this since
 18 the risk of this process is so low and we
 19 are not out of compliance."
 20 Do you see where that's
 21 written?
 22 A. I see it.
 23 Q. Mr. Bryant forwards on to
 24 Ms. Jonas above that -- or Mr. Jonas,

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1 above that, "Tracy, FYI the Lakeland DC
 2 has elected to accept the failure on the
 3 methadone clinic issue. Still working on
 4 other issues at Lakeland."
 5 Do you see where that's
 6 written?
 7 A. I see that.
 8 Q. And if you continue on to --
 9 go back to Page three, you're brought
 10 into the discussion.
 11 Do you see where that's
 12 written?
 13 A. Mm-hmm.
 14 Q. Tracy Jonas is writing to
 15 you, says, "Bill, I want to bring this to
 16 your attention. The Lakeland DC failed
 17 the methadone clinic component on a STARS
 18 audit. Subsequently, it was noted as a
 19 high risk given the issues that McKesson
 20 has had in the past."
 21 She is referring to 2008
 22 settlement there?
 23 A. Excuse me?
 24 Q. What issues in the past do

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1 you understand her to be referencing
 2 there?
 3 A. I'm not sure. Tracy is a
 4 guy, by the way.
 5 Q. I'm sorry. What issues do
 6 you understand him to be referencing in
 7 the past there?
 8 A. I would assume it would be
 9 related to the 2008 settlement.
 10 Q. Right. Subsequently --
 11 excuse me. "This then required a
 12 third-party validation in order to clear
 13 the STARS audit issues list. You can see
 14 the response from Ben below when asked to
 15 validate completion. This would seem
 16 unacceptable to me. Were you aware of
 17 it?"
 18 Do you see that?
 19 A. I see it.
 20 Q. And you respond back,
 21 saying, "I'm just finding out about this.
 22 Will follow up. I will agree with you."
 23 Or, "I agree with you." Right?
 24 A. Yes.

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1 Q. And so what's going on here
 2 is that the issue has been raised that
 3 there is no systematic way at the
 4 Lakeland DC to identify the methadone
 5 clinics that were being serviced, right?
 6 A. Well, there were two
 7 methadone clinics that were being
 8 serviced.
 9 Q. And there's no way to track
 10 the signatures through the system, right?
 11 And the failures, they were just going to
 12 accept them, correct?
 13 A. I'm not sure if I recall
 14 that they were ordering much in the way
 15 of methadone. I think that by this time,
 16 the clinics had moved mostly to
 17 buprenorphine.
 18 Q. That's not my question. My
 19 question to you earlier is whether you
 20 felt that you had a system in place that
 21 was robust enough to identify proper
 22 customers. And now we have Mr. Coppola
 23 saying that there's no systematic way to
 24 identify the methadone clinics that are

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1 serviced by a distribution center, nor is
 2 there a way to track the signatures
 3 through the system. They're trying to
 4 fix it. He says, "We're simply going to
 5 accept the failure on this." Right?
 6 A. I know these are two detox
 7 clinics.
 8 Q. Okay.
 9 A. There is a system whereby we
 10 get a signature that -- of a responsible
 11 party who is authorized to receive the
 12 product. And that is what's done at a
 13 DC. I'm not sure exactly what the
 14 situation was in 2011.
 15 Q. All right. So if you go to
 16 the first page. You have actually noted
 17 some more of these system glitches,
 18 correct? You write, "Given the
 19 incomplete schedule report is confounded
 20 by the use of DEA numbers for contract
 21 pricing, would use the" -- "would the use
 22 of the NTIS report this way, i.e., to
 23 filter on the DEA business class for
 24 compounder/maintenance and detox and

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1 detoxification, give us a quick and
 2 thorough way to evaluate all customers
 3 for which a DC needs to adhere to this?"
 4 And this being the procedure per Section
 5 55, right?
 6 MR. SCHMIDT: Objection.
 7 Compound.
 8 THE WITNESS: What's the
 9 question?
 10 BY MR. BOWDEN:
 11 Q. I'm asking if, in your
 12 review of this when you got these e-mails
 13 from your colleagues, if you identified
 14 another one of those system glitches, as
 15 you described earlier, that would inhibit
 16 a distribution center from adequately
 17 identifying the methadone clinics?
 18 A. No. We knew exactly who the
 19 methadone clinics were. What we -- what
 20 we were required to do is to have a
 21 record of the signature of the authorized
 22 person to receive it at the other end.
 23 And we put that in place, but it's a
 24 manual -- it's not a system glitch issue.

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1 It's a manual process.
 2 Q. Okay. That's not something
 3 that you felt that failure was acceptable
 4 on?
 5 A. No, I didn't feel like the
 6 failure was acceptable. I don't think we
 7 were failing it either.
 8 Q. Was this the first time that
 9 you were made aware of an issue in
 10 tracking the required documentation with
 11 the methadone clinic through the Lakeland
 12 distribution center?
 13 A. I'm not sure.
 14 Q. How many times do you think
 15 that they had a failure without you
 16 knowing about it?
 17 MR. SCHMIDT: Object to
 18 speculation.
 19 THE WITNESS: I don't know.
 20 BY MR. BOWDEN:
 21 Q. As part of your review
 22 process here, did you look into it?
 23 A. Yes.
 24 Q. And clearly they thought at

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1 that time, at least at the distribution
 2 center level, that taking the fail was an
 3 option, right?
 4 A. I'm not sure what that
 5 gentleman was thinking.
 6 Q. Well, he said, "We're going
 7 to accept the failure on this," correct?
 8 A. I see that.
 9 Q. Okay. And so clearly at the
 10 distribution center level, they felt that
 11 taking the failure was an option instead
 12 of fixing the problem and complying,
 13 correct?
 14 A. I'm not sure what he was
 15 thinking, but I agreed with Tracy and
 16 what he was saying.
 17 Q. You can set that one aside.
 18 Now, earlier when we were talking about
 19 the CSMP process generally, you also get
 20 information occasionally from the actual
 21 producers of opioids, correct, in terms
 22 of pharmacies to look out for, doctors to
 23 look out for, correct?
 24 A. A lot of times, they have

<p style="text-align: right;">Page 398</p> <p>1 inquiries on the pharmacies. 2 Q. They might share with 3 McKesson pharmacies or pain clinics that 4 would be cause for concern, true? 5 A. I think that the 6 manufacturers have different ways of 7 doing it. But yeah, I think that they 8 would raise questions on various 9 customers of ours. 10 Q. Okay. And they would share 11 that with McKesson on a frequent basis? 12 A. I think that the typical 13 channel was for them to communicate with 14 Don. And then for him to -- Don Walker, 15 and for him to request that we do some 16 diligence on customers that they 17 expressed interest in. 18 Q. Okay. And did Don, when he 19 shared that information with you or other 20 directors of regulatory affairs, did he 21 expect you to take that into 22 consideration and act upon it in terms of 23 denying or blocking orders from going out 24 of a distribution center?</p>	<p style="text-align: right;">Page 400</p> <p>1 along to Don. 2 Q. Right. 3 A. He would ask for more 4 information on those. From us. 5 Q. Okay. All right. So that 6 would go on to Don. And Don would ask 7 for more information. And then depending 8 on what he got back, would he ever share 9 that information with -- with the 10 regulatory affairs department? 11 A. So Don Walker would ask for 12 information from us. We would do 13 research and/or visit or interview the 14 customer, make a determination, and give 15 it back to him. 16 Q. I see. 17 A. And he would -- he would 18 meet with that person. 19 Some -- there was occasion 20 when I met with a couple of people on my 21 DCs. 22 Q. Okay. All right. So the 23 information that you're talking about 24 that was being sought by Don was</p>
<p style="text-align: right;">Page 399</p> <p>1 MR. SCHMIDT: Objection. 2 Foundation. 3 THE WITNESS: No, I don't 4 think that was -- that was what he 5 was doing. 6 When he did that, he was 7 asking for more information on 8 those customers. 9 BY MR. BOWDEN: 10 Q. Okay. Let me rephrase it 11 here. Maybe I can clarify it to the 12 extent it was confusing. 13 If a manufacturer reached 14 out to McKesson and said, "We're aware of 15 the following clinics or the following 16 pharmacies that we believe are cause for 17 concern, that perhaps you shouldn't be 18 filling orders submitted by these 19 pharmacies." Is that information that 20 would have been shared with you? 21 A. I think that they -- I think 22 those manufacturers would see information 23 that caused them to be curious about what 24 was going on, so they would pass that</p>	<p style="text-align: right;">Page 401</p> <p>1 information being sought by the directors 2 of regulatory affairs, not necessarily 3 from the manufacturer, correct? 4 A. Let's say Mallinckrodt 5 observes that a customer which hadn't 6 prior been ordering oxycodone from them, 7 all of the sudden is ordering oxycodone 8 from them. And they're trying to 9 understand what's going on. And it may 10 have been that their version of it was 11 included in someone's formulary, and that 12 caused an ongoing demand for oxycodone to 13 be shifted from one manufacturer to 14 another, but their overall dispensing may 15 not have changed. 16 Q. Gotcha. You mentioned 17 Mallinckrodt. I'm going to show you 18 P-1.1697. 19 (Document marked for 20 identification as Exhibit 21 Mahoney-35.) 22 BY MR. BOWDEN: 23 Q. That should be Exhibit 24 Number 35, which is P-1.1697.</p>

<p style="text-align: right;">Page 402</p> <p>1 You can see at the bottom of 2 this document, this is an e-mail from 3 Michael Oriente to Don Walker copying you 4 on here. It says, "I just got a call 5 from Bill Ratiliff with Mallinckrodt." 6 And that is a manufacturer of opioids, 7 correct? 8 A. Mallinckrodt, yes. 9 Q. Okay. And they're a 10 supplier -- or rather, McKesson is a 11 purchaser of Mallinckrodt opioids, 12 correct, for distribution? 13 A. Yes. 14 Q. It says here, "Don, I just 15 received a call from Bill Ratiliff and 16 the woman that met with Bill. He was 17 very accusatory toward our due diligence 18 and the tone he was using I found to be 19 insulting." 20 Do you have a recollection 21 of this meeting? 22 A. I think he's talking about a 23 meeting that he had or a call that he 24 had.</p>	<p style="text-align: right;">Page 404</p> <p>1 and planned to finish today. He asked 2 why did we continue to fill for these 3 customers if a doctor was identified, and 4 I told him that the doctor was reported 5 to the DEA as a doctor they may want to 6 look at. He said we should have stopped 7 shipping if a doctor is identified as 8 being a high prescriber, again subjective 9 as what is high. He mentioned he is 10 ex-law enforcement and he differed on my 11 opinion. I told him no increases were 12 made to accounts that we felt were at a 13 threshold that we felt should not be 14 raised. He felt we should have stopped 15 shipping to a few customers altogether." 16 Do you see where that's 17 written? 18 A. I do. 19 Q. And -- excuse me. So what's 20 happening here is Mallinckrodt is 21 reaching out saying that you guys are 22 filling orders, you being McKesson, that 23 they've identified those orders shouldn't 24 be filled based on the customers they are</p>
<p style="text-align: right;">Page 403</p> <p>1 Q. Okay. 2 A. So Michael Oriente is 3 relaying information that he had, I 4 guess, on a phone call with this guy, 5 Bill Ratiliff and -- I think her name was 6 Karen. I can't remember her name 7 offhand. 8 Q. So Bill and his colleague, 9 though, are people -- excuse me. Bill 10 Ratiliff and his colleague were people 11 whom you had previously met with 12 yourself? 13 A. I'm not sure about the 14 timing relative to this, but I think some 15 time in this, either before or after, I 16 had met with them when they came to the 17 Lakeland DC. 18 Q. Right. And Michael 19 continues on. "He was abrupt after my 20 answers when they were not what he wanted 21 to hear. He asked how many customers I 22 had on the list, and I told him 15 of the 23 20. He asked me if I had finished the 24 sheets and I told him I completed eight</p>	<p style="text-align: right;">Page 405</p> <p>1 going to, right? 2 A. I don't think so. I think 3 they were doing some verification. I had 4 a similar meeting, I guess, with these 5 guys and I found -- I didn't find them to 6 be rude or abrupt at all. I thought it 7 was a good meeting. 8 Q. Okay. Well, what's 9 happening at least according to Michael 10 in his e-mail to Don and copying you on 11 it, is he's relaying that the 12 manufacturers have looked into the 13 doctors, right, and they are taking issue 14 with McKesson filling orders to those 15 doctors, right? 16 A. I think, specifically to 17 Michael on this, apparently. 18 Q. And so the response was that 19 what McKesson had done is while the 20 manufacturers' opinion is they shouldn't 21 fill it, McKesson simply said we forward 22 that information on to the DEA but 23 continued to fill the orders, right? 24 A. I -- I don't know the</p>

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1 context of the situation with Michael
2 Oriente there.
3 Q. Okay. So were there
4 occasions when manufacturers would reach
5 out to you or others at McKesson and say
6 we feel that you should not fill orders
7 to these customers and McKesson filled
8 the orders anyway?
9 A. I don't recall them saying
10 that to me.
11 Q. Okay. But that's what that
12 says on this e-mail, correct?
13 MR. SCHMIDT: Objection.
14 Asked and answered.
15 THE WITNESS: I don't see
16 where it says what you're saying,
17 especially as it relates to me.
18 BY MR. BOWDEN:
19 Q. Okay. So it -- would it
20 have been the practice of McKesson to
21 defer to the DEA to take action against
22 doctors instead of McKesson not filling
23 an order?
24 MR. SCHMIDT: Objection.

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1 Vague.
2 THE WITNESS: The -- the
3 context is hard to understand, you
4 know.
5 BY MR. BOWDEN:
6 Q. I'm just asking you
7 independent of this e-mail here. So long
8 as McKesson didn't feel they were blowing
9 through a threshold, did McKesson feel
10 that it was okay to fill orders to
11 doctors and pharmacies for which concerns
12 had been raised by manufacturers and
13 those manufacturers were saying you
14 should not be filling these orders?
15 MR. SCHMIDT: Objection.
16 Vague.
17 THE WITNESS: I think you're
18 misunderstanding in terms of the
19 doctor being the writer or the
20 dispenser.
21 We weren't -- we weren't
22 selling to dispensing physicians.
23 Okay?
24 So I think Michael may have

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1 done some research which
2 identified a doctor who was still
3 licensed, still registered with
4 the DEA, and he was writing some
5 portion of the scripts that this
6 pharmacy was filling.
7 BY MR. BOWDEN:
8 Q. Right, I was combining the
9 two so let me rephrase it. I think
10 you're -- fair distinction.
11 Would you -- my question to
12 you then is did McKesson feel that it was
13 appropriate to fill orders for a
14 pharmacy, when one of the customers of
15 the pharmacy was a doctor who had been
16 identified by the manufacturer as someone
17 who should not be having orders filled?
18 A. You're saying the doctor was
19 a customer of the pharmacy?
20 Q. Is that not what this says?
21 He asked why did we continue
22 to fill it for these customers if a
23 doctor was identified. And I told him
24 the doctor was reported to the DEA as a

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1 doctor they may want to look at.
2 A. Okay.
3 Q. So instead of stopping the
4 flow of pills to the pharmacy, what
5 happened was McKesson simply informed the
6 DEA, this might be something that the DEA
7 wants to look into, correct?
8 MR. SCHMIDT: Objection.
9 Foundation.
10 THE WITNESS: I don't -- I
11 don't know what Michael -- what
12 information he had about a
13 particular doctor. But I think
14 that he -- again, you are
15 misunderstanding the -- the flow
16 of the product and who is writing
17 it.
18 I guess my -- my
19 interpretation is that the doctor
20 was writing scripts that were
21 being filled by this pharmacy,
22 okay.
23 And for whatever reason,
24 Michael had some information about

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1 the doctor that I think he shared
2 with the DEA, okay.
3 The doctor was licensed.
4 The doctor was registered.
5 I'm not sure if he shared
6 the information with the pharmacy.
7 You know, I don't know. This is
8 third party, you're asking me to
9 comment on -- on what happened.
10 But it's not consistent with my
11 experience with Bill Ratiliff and
12 Karen.
13 BY MR. BOWDEN:
14 Q. That would give rise to the
15 concern of divergence, correct, if there
16 was a doctor identified as a high
17 prescriber or writing prescriptions to
18 people who may not be in medical need of
19 the prescriptions, that could be an
20 example of divergence, correct?
21 MR. SCHMIDT: Objection.
22 Foundation.
23 THE WITNESS: I -- and I
24 think --

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1 BY MR. BOWDEN:
2 Q. I'm not asking the context
3 of this e-mail.
4 MR. SCHMIDT: Let him finish
5 his answer, please. I think he
6 gets to answer your question.
7 You can answer the question.
8 THE WITNESS: I'm -- I'm
9 just saying that our ability to
10 affect the actions of others based
11 on observation of -- which is --
12 is probably anecdotal based on
13 what I'm seeing, is quite limited.
14 So I think -- I think Michael was
15 trying to do the right thing, but
16 I don't have -- I don't think I
17 ever had that kind of information
18 about doctors.
19 BY MR. BOWDEN:
20 Q. Okay. I think I may have
21 misspoke there. But that could be an
22 example of diversion, correct?
23 MR. SCHMIDT: Objection.
24 Vague.

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1 THE WITNESS: Are you
2 talking about doctors who are
3 writing excessive prescriptions?
4 BY MR. BOWDEN:
5 Q. Correct.
6 A. That would be an example of
7 diversion.
8 Q. Right. And some of the ways
9 that you could become aware of diversion
10 is either conducting your own
11 investigation, correct, that would be one
12 way you can find out about it?
13 A. About that kind of
14 diversion?
15 Q. Yeah. There's nothing that
16 prohibits McKesson, if -- if someone
17 gives them a tip that says this is a
18 doctor you might want to be concerned
19 about, from picking up the phone and
20 talking to the doctor or doing research
21 to see if they have a DEA license, what
22 their customer base is, picking up the
23 phone and asking, there's nothing that
24 prohibits you from doing that, correct?

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1 A. Calling the doctor?
2 Q. I'm asking you, are there
3 steps that McKesson could take to
4 investigate a doctor themselves?
5 A. I think that that's outside
6 of McKesson's obligation as a distributor
7 to set up effective systems.
8 Q. Okay.
9 A. I'm not sure if collecting
10 an aggregation of a doctors prescribing
11 is -- is something we even have access
12 to.
13 Q. Okay. When someone raises
14 it to the attention of McKesson directly,
15 do you feel that McKesson has no
16 obligation to conduct site visits with
17 the pharmacy, conduct interviews, or is
18 their obligation merely to inform the
19 DEA?
20 A. About a doctor?
21 Q. About an issue where --
22 A. We do do site visits at the
23 pharmacy. I don't see us doing a site
24 visit at a doctor who may be a prescriber

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1 that the pharmacy is filling.
2 Part of what we're trying to
3 do is get customers to fulfill their
4 corresponding responsibility. That's
5 where a lot of our questioning comes
6 from.
7 Q. Okay. Switching over to --
8 I'll hand you what I'm marking as
9 Exhibit Number 36. P-1.1990.
10 (Document marked for
11 identification as Exhibit
12 Mahoney-36.)
13 BY MR. BOWDEN:
14 Q. Part of what we discussed
15 earlier was the fact that TCR is
16 requesting to be well documented, right,
17 and that was true in 2011 as well as it
18 is today, correct?
19 MR. SCHMIDT: Object to
20 characterization.
21 BY MR. BOWDEN:
22 Q. Why don't you take a look at
23 this e-mail at the bottom from Dave
24 Gustin. Was Rite Aid one of your

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1 accounts?
2 A. No.
3 Q. It was not? Okay. But
4 would it be common for you to be copied
5 on correspondence dealing with other
6 people's national accounts?
7 A. Not typically.
8 Q. Would it only be typical if
9 there was an issue to be decided such as
10 a major threshold increase?
11 A. I'm not sure.
12 Q. Let's read it here. It
13 says, "Michael, you left this one from
14 yesterday. I can see it may be an issue.
15 This account already got an increase of
16 oxy of 4,000 doses a week, and now wants
17 a 15 percent increase. This will take
18 them from 27.5000 to 36,000, 33 percent
19 more so, in two steps in the same month.
20 I will leave this one to you to decide
21 unless Jenna can give me assurances that
22 Rite Aid Corp. has taken a hard look at
23 this and the pain doctor and insists they
24 want this increase."

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1 Do you see that there? Do
2 you see where that --
3 A. I see it there.
4 Q. You would agree with me that
5 when there are threshold changes
6 requested that it would be appropriate in
7 some circumstances, or that McKesson has
8 the ability to reach out to the pharmacy
9 and ask for assurances that the pain
10 doctor is -- strike that.
11 You'd agree with me that
12 McKesson has the ability to conduct its
13 own investigations and to ask for
14 follow-up information with pharmacies
15 when they have new doctors such as pain
16 clinics placing large orders through them
17 or filling prescriptions through them,
18 correct?
19 A. I'll agree with you what?
20 I'm sorry.
21 Q. Are you having trouble
22 hearing me or just understanding the
23 question?
24 A. It was a long question and I

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1 lost the train.
2 Q. All right. I'll break it
3 down for you.
4 You see this e-mail is Rite
5 Aid asking for a 33 percent increase in
6 their threshold, right?
7 A. Right. Mm-hmm.
8 Q. And that would be a
9 33 percent increase in the same month,
10 right?
11 A. Yes.
12 Q. That's what this says. And
13 what's happening here is Dave Gustin, one
14 of the directors of regulatory affairs,
15 is saying that he needs more information.
16 They need assurances, correct, in order
17 to make this threshold increase?
18 A. I think he's trying to
19 understand more about the situation.
20 Q. And so what happens in the
21 follow-up in this e-mail that you're
22 copied on, is that Jenna Nichols says, "I
23 just sent a note to Rite Aid's director
24 of loss prevention to bring this to her

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1 attention and confirm if she feels the
2 increase is warranted."
3 Do you see that?
4 A. Yes.
5 Q. Is that the level of
6 diligence that McKesson would go through,
7 say, go back to the customer, to say, "Is
8 this increase actually warranted," in
9 order to complete a TCR?
10 A. I think this is definitely
11 evidence of pushback. I'm not sure what
12 eventually happened with this. It may
13 well have met with the loss prevention
14 director's agreement that this shouldn't
15 be filled. I don't know.
16 Q. But my question to you is
17 more general. If a 33 percent increase
18 is requested, is it sufficient due
19 diligence simply to ask the pharmacy if
20 they really want the increase?
21 A. No. That didn't -- that
22 didn't result in it being completed.
23 Q. Okay. You can set that one
24 aside.

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1 MR. BOWDEN: Off the record
2 real quick. Can you say the time.
3 THE VIDEOGRAPHER:
4 44 minutes on the record. And
5 total 5 hours and 46 minutes.
6 MR. SCHMIDT: That's not
7 correct. We've been going since
8 4:01.
9 THE VIDEOGRAPHER: You mean
10 the time on the record?
11 MR. SCHMIDT: This last
12 break, we've been going since
13 4:01. It was the wrong time down.
14 MR. BOWDEN: I just wanted
15 to use full time. I'm not asking
16 to take a break.
17 MR. SCHMIDT: Maybe I wrote
18 down the wrong time. But I
19 thought we'd been going for six
20 hours.
21 THE VIDEOGRAPHER: We've
22 been on the record for 45 minutes.
23 And the record on the camera is
24 five hours and 46 minutes.

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1 Should I stop the camera?
2 MR. SCHMIDT: No, let's stay
3 on the record. Unless you want
4 to --
5 MR. BOWDEN: No, I just
6 asked to go off to get a count.
7 MR. SCHMIDT: I might
8 have -- just to be clear, I might
9 have written down the wrong time.
10 THE VIDEOGRAPHER: No
11 problem.
12 MR. SCHMIDT: It's just the
13 extra 15 minutes at this time of
14 day, it felt like it crushed my
15 soul. So I had to react.
16 MR. BOWDEN: I'll withhold
17 the comments on the soul.
18 MR. SCHMIDT: That comes in
19 spades, my friend.
20 MR. BOWDEN: I'll tell you
21 what, let's pause for a second.
22 I'm cutting down some documents.
23 Not to -- I'm not going to leave
24 or anything. Go off the record

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1 for a second.
2 THE VIDEOGRAPHER: The time
3 is 5:02 p.m. Off the record.
4 (Short break.)
5 THE VIDEOGRAPHER: The time
6 is 5:05 p.m. Back on the record.
7 BY MR. BOWDEN:
8 Q. Sir, you're familiar with
9 the HDMA, correct?
10 A. Yes.
11 Q. And that was an industry
12 organization in which McKesson was a
13 member?
14 A. Yes.
15 Q. All right. And that
16 industry trade group -- is that fair to
17 call it an industry trade group?
18 A. Yes.
19 Q. -- helped to develop or had
20 developed its own guidelines for
21 monitoring of suspicious ordering; is
22 that right?
23 A. I think they had worked with
24 members in order to collect some best

<p style="text-align: right;">Page 422</p> <p>1 practices, that kind of thing.</p> <p>2 Q. Okay. And McKesson itself</p> <p>3 had agreed to follow the HDMA guidelines,</p> <p>4 right?</p> <p>5 A. I'm not sure about that.</p> <p>6 Q. All right. Well, McKesson</p> <p>7 as a member, did it participate in the</p> <p>8 drafting of those guidelines, or do you</p> <p>9 know?</p> <p>10 A. I don't know.</p> <p>11 Q. Are the HDMA guidelines</p> <p>12 something that you followed as a</p> <p>13 distribution center manager and/or -- and</p> <p>14 as director of regulatory affairs?</p> <p>15 A. I'm not sure -- are you</p> <p>16 talking about specific guidelines or --</p> <p>17 Q. Yeah. Specific guidelines</p> <p>18 for suspicious order monitoring?</p> <p>19 A. I know that they issued</p> <p>20 some. I don't have them.</p> <p>21 Q. Okay. Would you agree with</p> <p>22 me that the monitoring of suspicious</p> <p>23 orders and sending that information to</p> <p>24 the DEA is important?</p>	<p style="text-align: right;">Page 424</p> <p>1 at Level 3, we would shut the customer</p> <p>2 down and report it to the DEA.</p> <p>3 Q. I'm going to hand you what</p> <p>4 I'm marking as Exhibit Number 37,</p> <p>5 P1.1941.</p> <p>6 (Document marked for</p> <p>7 identification as Exhibit</p> <p>8 Mahoney-37.)</p> <p>9 BY MR. BOWDEN:</p> <p>10 Q. This is an e-mail from you,</p> <p>11 March 11, 2013, to Don Walker, Bruce</p> <p>12 Russell, and Gary Hilliard.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And the subject is "HDMA</p> <p>16 notes," right?</p> <p>17 A. Yes.</p> <p>18 Q. And it says, "Gary and I</p> <p>19 attended the HDMA conference last week.</p> <p>20 These are my notes. Perhaps the most</p> <p>21 surprising revelation was Steve Reardon</p> <p>22 and Gilberto Quintero saying Cardinal</p> <p>23 does not report suspicious orders to the</p> <p>24 DEA, no upside."</p>
<p style="text-align: right;">Page 423</p> <p>1 A. Yes.</p> <p>2 Q. It's important to help</p> <p>3 curtail the opioid epidemic, right?</p> <p>4 Epidemic.</p> <p>5 A. It's a part of our</p> <p>6 obligation under the CSA.</p> <p>7 Q. Right. And beyond just</p> <p>8 having a legal obligation, it's something</p> <p>9 that should be important to McKesson,</p> <p>10 right?</p> <p>11 A. We do what we -- we report</p> <p>12 the suspicious orders as defined right</p> <p>13 now.</p> <p>14 Q. You do what you're now --</p> <p>15 you said that, the reporting of</p> <p>16 suspicious orders, that didn't exist just</p> <p>17 as a result of the 2017 agreement, right?</p> <p>18 A. No.</p> <p>19 Q. It came about as a result of</p> <p>20 the May 2008 settlement agreement, right?</p> <p>21 A. Right. And what we did was</p> <p>22 an omit would kick off the process to a</p> <p>23 Level 1, which would go to Level 2. And</p> <p>24 if we determined that it was suspicious</p>	<p style="text-align: right;">Page 425</p> <p>1 Do you see where that's</p> <p>2 written?</p> <p>3 A. I do.</p> <p>4 Q. Do you agree that there's no</p> <p>5 upside to reporting suspicious orders to</p> <p>6 the DEA?</p> <p>7 A. You know, I think I --</p> <p>8 MS. McNAMARA: Objection to</p> <p>9 form.</p> <p>10 MR. SCHMIDT: You can still</p> <p>11 answer. Go ahead.</p> <p>12 THE WITNESS: I believe that</p> <p>13 in my writing this, I misspoke.</p> <p>14 And I was referring to when they</p> <p>15 shut customers down because they</p> <p>16 were suspicious customers.</p> <p>17 BY MR. BOWDEN:</p> <p>18 Q. When did you come up with</p> <p>19 that belief? Is that recent?</p> <p>20 A. I saw that -- I said</p> <p>21 suspicious orders. That isn't what they</p> <p>22 said. What we do -- what we did was to</p> <p>23 write a letter to the DEA when we were</p> <p>24 shutting a customer down. And they said</p>

<p style="text-align: right;">Page 426</p> <p>1 they don't do that.</p> <p>2 Q. Okay. Well, if Cardinal</p> <p>3 were not reporting suspicious orders,</p> <p>4 would you agree -- strike that.</p> <p>5 It would be inappropriate to</p> <p>6 not report suspicious orders, true?</p> <p>7 A. Like I said, I misspoke</p> <p>8 here.</p> <p>9 Q. I'm not asking you about the</p> <p>10 context of this e-mail. I'm asking you,</p> <p>11 it would be inappropriate -- it would be</p> <p>12 a violation of the CSMP not to report</p> <p>13 suspicious orders, correct?</p> <p>14 A. It's part of our CSMP to</p> <p>15 report suspicious orders.</p> <p>16 Q. What are the upsides for</p> <p>17 reporting suspicious orders to the DEA?</p> <p>18 A. Notify them of orders that</p> <p>19 have reached their -- our thresholds for</p> <p>20 the customers.</p> <p>21 Q. Okay. What other upsides</p> <p>22 would there be? What are the practical</p> <p>23 implications of that?</p> <p>24 A. Can let the DEA see where --</p>	<p style="text-align: right;">Page 428</p> <p>1 Form.</p> <p>2 THE WITNESS: We report them</p> <p>3 automatically when customers hit</p> <p>4 their -- their threshold.</p> <p>5 BY MR. BOWDEN:</p> <p>6 Q. Go to the second page of</p> <p>7 that document if you will. At the bottom</p> <p>8 of this, these are your -- your memo</p> <p>9 notes, right, your meeting minutes from</p> <p>10 HDMA, from the conference you had?</p> <p>11 A. Yes.</p> <p>12 Q. Right?</p> <p>13 And at the bottom of the</p> <p>14 second page where it says, "Later had</p> <p>15 dinner with the group." Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. "Later had dinner with the</p> <p>18 group. Interesting gossip came from</p> <p>19 Reardon/Quintero who relate that Cardinal</p> <p>20 is not reporting suspicious orders to the</p> <p>21 DEA on advice of outside counsel.</p> <p>22 Appears to be Linden Barber. Quote, we</p> <p>23 don't get any credit for doing it,</p> <p>24 appears there is no upside."</p>
<p style="text-align: right;">Page 427</p> <p>1 where customers are hitting the</p> <p>2 thresholds.</p> <p>3 Q. When you wrote this</p> <p>4 statement, "Cardinal does not report</p> <p>5 suspicious orders to the DEA, no upside,"</p> <p>6 did you make that statement to anyone</p> <p>7 else beyond McKesson?</p> <p>8 A. I don't know, but I don't</p> <p>9 believe so.</p> <p>10 Q. For example, did you share</p> <p>11 with the DEA that Cardinal told you they</p> <p>12 had not reported suspicious orders to the</p> <p>13 DEA?</p> <p>14 MR. SCHMIDT: Object to</p> <p>15 characterization.</p> <p>16 THE WITNESS: I don't think</p> <p>17 I had -- I don't think I had a</p> <p>18 discussion with the DEA on</p> <p>19 Cardinal at all.</p> <p>20 BY MR. BOWDEN:</p> <p>21 Q. Is it McKesson's obligation</p> <p>22 to report suspicious orders whenever they</p> <p>23 observe them?</p> <p>24 MR. SCHMIDT: Objection.</p>	<p style="text-align: right;">Page 429</p> <p>1 Do you see that there?</p> <p>2 A. I see it.</p> <p>3 Q. And you didn't make that</p> <p>4 statement to the DEA yourself, right,</p> <p>5 that you had this discussion with</p> <p>6 Cardinal, right?</p> <p>7 A. Not that I know of, no.</p> <p>8 Q. All right. And --</p> <p>9 A. And again I misspoke in this</p> <p>10 thing. And it was my description of how</p> <p>11 we write a letter to DEA to notify them,</p> <p>12 when we shut customers down. They said</p> <p>13 they don't do it.</p> <p>14 Q. So you misspoke in the</p> <p>15 e-mail to your colleagues and you</p> <p>16 misspoke when you were summarizing the</p> <p>17 minutes from the dinner, correct?</p> <p>18 A. Apparently.</p> <p>19 Q. Okay. Anywhere else that</p> <p>20 you misspoke in this document?</p> <p>21 A. I don't know.</p> <p>22 MR. SCHMIDT: Do you want to</p> <p>23 review it?</p> <p>24 THE WITNESS: Yeah, let me</p>

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1 review.
2 BY MR. BOWDEN:
3 Q. Let me know when you get to
4 Page 5.
5 A. I'm on Page 5.
6 Q. Okay, great. I want you to
7 look at where it says, "Understand your
8 role."
9 Do you see that there?
10 A. Yes.
11 Q. "Discuss suspicious orders,
12 stop suspicious orders, report suspicious
13 orders," right? Those are the HDMA
14 guidelines in summary, correct?
15 A. I think this was part of
16 Linden Barber and Larry Côté's
17 presentation.
18 Q. Okay. Do you agree that the
19 role of the distributor should be to
20 discover suspicious orders, stop
21 suspicious orders and report them?
22 A. Yes.
23 Q. And you agree that if --
24 failing to do that would result in harm

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1 to the public or could result in harm to
2 the public?
3 A. It could.
4 Q. Okay. And reporting it
5 could actually draw scrutiny on a
6 distributor, right, reporting could --
7 could invite the DEA to look and see what
8 other suspicious orders may have been
9 noted and not reported, right?
10 MR. SCHMIDT: Objection.
11 Speculation.
12 THE WITNESS: I'm not sure.
13 I haven't noticed the DEA to react
14 one way or the other when we
15 report suspicious orders.
16 BY MR. BOWDEN:
17 Q. Is that a reason for --
18 would that provide you in your mind a
19 reason not to report suspicious orders,
20 because you haven't in your view seen the
21 DEA react?
22 A. No. You were discussing
23 what the value is. And I was saying I
24 haven't observed that they have. But we

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1 still do, because it's required.
2 Q. You do because it's
3 required. Is that what you said?
4 A. It's one of the requirements
5 of the distributor.
6 Q. Okay. I'm going to hand you
7 what I will mark as Exhibit Number 38,
8 which is P-1.1806.
9 (Document marked for
10 identification as Exhibit
11 Mahoney-38.)
12 BY MR. BOWDEN:
13 Q. This is an e-mail from you
14 dated February 28, 2012, to Don Walker
15 and others. And the subject is HDMA CSMP
16 guidelines. Do you see that?
17 A. Mm-hmm.
18 Q. Says, "Recently had a
19 customer asking if we were planning on
20 following these and it occurred to me as
21 I read today's USA Today, that we may not
22 be following our own guidelines."
23 Do you see that?
24 A. I see that.

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1 Q. And when you say we, you are
2 talking about McKesson, correct?
3 A. I believe so.
4 Q. And the concern you're
5 raising that McKesson may not be
6 following its own guidelines as part of
7 the industry trade group HDMA, right?
8 A. Yeah, in reference to HDMA's
9 publication.
10 Q. Right. And so it says here,
11 "Know your customer, due diligence," and
12 then in this e-mail you've actually
13 highlighted certain provisions, right?
14 A. Apparently.
15 Q. Yeah. And so these may be
16 some of the guidelines that McKesson was
17 not following, right, in your view?
18 A. Well --
19 MR. SCHMIDT: Objection to
20 the characterization.
21 THE WITNESS: -- I would say
22 for example, that where it says
23 the questionnaire and the
24 signature, which must be

<p style="text-align: right;">Page 434</p> <p>1 notarized, or accompanied by a</p> <p>2 statement, we stopped doing that</p> <p>3 because we were advised by our</p> <p>4 counsel that it had no effect.</p> <p>5 BY MR. BOWDEN:</p> <p>6 Q. Okay.</p> <p>7 A. So there -- there are things</p> <p>8 that people said, hey, this is a good</p> <p>9 idea. But were later decided to be</p> <p>10 either ineffective or cumbersome or not</p> <p>11 adding value to what we were trying to</p> <p>12 find out.</p> <p>13 Q. Okay. So some of the</p> <p>14 criteria McKesson used as to whether they</p> <p>15 were going to follow these guidelines are</p> <p>16 whether it was ineffective, cumbersome or</p> <p>17 not adding value, right?</p> <p>18 A. When I say adding value, I</p> <p>19 mean contributing to the detection of</p> <p>20 what you're talking about.</p> <p>21 Q. Gotcha. So let's look at</p> <p>22 some of these highlights here. One of</p> <p>23 the things you highlight towards the</p> <p>24 bottom of the page, it says, "Average</p>	<p style="text-align: right;">Page 436</p> <p>1 note that we -- in improving our</p> <p>2 systems, we are able now with our</p> <p>3 dispensing reports to determine</p> <p>4 the average number of</p> <p>5 prescriptions filled each day,</p> <p>6 controlled substances</p> <p>7 prescriptions the same way.</p> <p>8 And I'm not sure exactly</p> <p>9 what all the -- the things that</p> <p>10 are referred to in verification of</p> <p>11 physical security controls for CS</p> <p>12 storage.</p> <p>13 BY MR. BOWDEN:</p> <p>14 Q. Sure.</p> <p>15 And what we had discussed</p> <p>16 earlier today was that some of this data,</p> <p>17 for example the prescriptions filled each</p> <p>18 day, the percentage of controlled</p> <p>19 substance compared to overall purchases,</p> <p>20 that was data that was available to</p> <p>21 McKesson as far back as 2008, but may not</p> <p>22 have been data that was actually put into</p> <p>23 a report for your review, right?</p> <p>24 MR. SCHMIDT: Object to</p>
<p style="text-align: right;">Page 435</p> <p>1 number of prescriptions filled each day,"</p> <p>2 right?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. "Average number of</p> <p>5 controlled substance item prescriptions</p> <p>6 filled each day. Percentage of</p> <p>7 controlled substance purchases compared</p> <p>8 to overall purchases. Verification of</p> <p>9 physical security controls for CS storage</p> <p>10 and questions based on DEA guidance and</p> <p>11 communications," right?</p> <p>12 A. That's right.</p> <p>13 Q. So some of the things that</p> <p>14 you weren't following were questions that</p> <p>15 were based on DEA guidance as of 2012,</p> <p>16 right?</p> <p>17 MR. SCHMIDT: Object.</p> <p>18 Object to characterization.</p> <p>19 BY MR. BOWDEN:</p> <p>20 Q. Things that you noted?</p> <p>21 MR. SCHMIDT: Object to</p> <p>22 characterization.</p> <p>23 THE WITNESS: I see that I</p> <p>24 highlighted some questions. And I</p>	<p style="text-align: right;">Page 437</p> <p>1 characterization.</p> <p>2 THE WITNESS: In terms of</p> <p>3 scripts, we -- we have to request</p> <p>4 that from the customer. The</p> <p>5 customer is the one who manages</p> <p>6 the prescriptions. We don't do</p> <p>7 that.</p> <p>8 BY MR. BOWDEN:</p> <p>9 Q. Right. And this was --</p> <p>10 these are examples of things that could</p> <p>11 throw up a red flag that could be</p> <p>12 tantamount to a suspicious order, right?</p> <p>13 Or could be used in identifying</p> <p>14 suspicious orders, right?</p> <p>15 MR. SCHMIDT: Objection.</p> <p>16 Speculation.</p> <p>17 THE WITNESS: They help us</p> <p>18 understand -- get to know our</p> <p>19 customers better.</p> <p>20 BY MR. BOWDEN:</p> <p>21 Q. Okay. Do you feel that</p> <p>22 those were unnecessary data points to</p> <p>23 look at?</p> <p>24 A. We didn't have access to it</p>

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1 at the time that this was discussed.
2 Q. Did you ask for access?
3 A. We developed it in the wake
4 of it.
5 Q. And you developed in the
6 wake of the DEA May 2008 action, correct?
7 A. We were collecting
8 information on the dispensing data that
9 customers were giving us. We demanded it
10 in a different format in 2012 and 2013,
11 and that gave us better insight into what
12 the entire picture was. Eventually DEA
13 helped us in terms of understanding
14 how -- how many other distributors might
15 be servicing different base codes for
16 customers. But we had resolved that
17 problem years before.
18 We were always looking for
19 as much information about the customer as
20 we could find.
21 Q. Okay. So when you say
22 you're looking for as much information
23 about the customer as you can find,
24 you're telling me -- or you're telling

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1 our jury that as of February 2012, that
2 when you had noticed that "we may not be
3 following our own guidelines," and you
4 identified some of the guidelines that
5 you weren't following, that changes were
6 made to make sure that you incorporated
7 those and took those into consideration
8 when adjusting things such as thresholds,
9 right?
10 MR. SCHMIDT: Objection.
11 Mischaracterization.
12 THE WITNESS: I think I
13 looked at the article on USA Today
14 or HDMA publication and I just had
15 questions in terms of the totality
16 of everything they were saying was
17 best practice.
18 BY MR. BOWDEN:
19 Q. All right. Sir, I will hand
20 you what I will mark as Exhibit Number 39
21 to your deposition. P-1.1971.
22 (Document marked for
23 identification as Exhibit
24 Mahoney-39.)

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1 BY MR. BOWDEN:
2 Q. Was Wegmans one of your
3 national accounts?
4 A. I believe it was.
5 Q. And --
6 A. I'm not sure if it was in
7 2014.
8 Q. Okay. I want you to turn to
9 the last page of this document. And
10 before I start asking you questions on
11 the document itself?
12 A. This is the part of the
13 chain?
14 Q. Correct. The first part.
15 We had discussed earlier that the base
16 buffer that you would use was 10 percent
17 for all stores in setting a threshold,
18 correct?
19 MR. SCHMIDT: Objection to
20 form.
21 THE WITNESS: That's what
22 you said. I wasn't sure exactly
23 what the level was.
24 BY MR. BOWDEN:

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1 Q. Okay. Well, as a DRA, as
2 someone who was approving thresholds and
3 initial thresholds, was it your customary
4 practice to apply the maximum --
5 (Brief white noise
6 interference.)
7 MR. SCHMIDT: I think the
8 reporter may not have gotten it.
9 THE COURT REPORTER: Yeah, I
10 didn't want to ask you to repeat.
11 MR. SCHMIDT: And I wasn't
12 jumping on your question, but I
13 could just see...
14 MR. BOWDEN: That's okay.
15 Let me re-ask it then.
16 BY MR. BOWDEN:
17 Q. In your employment at
18 McKesson, you yourself approve or set
19 initial thresholds for customers,
20 correct?
21 A. I was presented with a
22 spreadsheet that showed the customers
23 along with history and other calculations
24 that proposed an initial threshold.

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1 Q. Right. And you were the one
2 who had to sign off on the initial
3 thresholds --
4 A. Yes.
5 Q. -- for some customers, true?
6 A. Yes.
7 Q. Okay. And when you were
8 signing off for thresholds for customers,
9 did you have a policy in mind as to what
10 an acceptable formula approach to setting
11 a threshold would be?
12 A. I think that the guideline
13 was determined by Bruce Russell, and we
14 were asked to review them to see if there
15 was anything that looked out of bounds or
16 strange. And we did that.
17 Q. Okay. And in your -- when
18 you were approving initial thresholds for
19 customers or approving increases, did you
20 feel that 10 percent was appropriate as a
21 buffer?
22 A. I'm not sure. I mean...
23 Q. I'm asking you as a person
24 who --

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1 MR. SCHMIDT: Let him finish
2 his answer, please.
3 THE WITNESS: It depends on
4 the context and what the threshold
5 is and what 10 percent is. I
6 mean, if a threshold is at
7 36 percent -- or threshold is at
8 3,600, and it's asked, is it --
9 well, when we set the threshold,
10 we set it to the requested level
11 or usually some level below that.
12 BY MR. BOWDEN:
13 Q. Okay. So let's just walk
14 through this document quickly, and then
15 we're almost at the end here.
16 In 2012, Wegmans was one of
17 the customers that McKesson was
18 servicing, correct?
19 A. 2012 or '14?
20 Q. 2014, excuse me. 2014.
21 A. Yes.
22 Q. And one of the things that
23 they were doing was they were going to be
24 moving some of their orders over to

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1 McKesson instead of getting them filled
2 from another competitor, right?
3 A. Yes.
4 Q. And so one thing that had to
5 be evaluated when that was happening was
6 increasing the threshold, right? That
7 was the business decision that was being
8 made by McKesson?
9 A. We were trying to
10 accommodate what we had experienced as
11 valid dispensing by a customer that had
12 been our customer for a while.
13 Q. Sure.
14 A. And they were changing their
15 supply chain.
16 Q. Right. And so when you say
17 you were trying to accommodate, what you
18 were trying to do is make sure that they
19 could still procure -- get the product
20 they needed without exceeding their
21 threshold, right?
22 A. Based on the fact that they
23 were adjusting the direction that they
24 were getting product through the supply

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1 chain, we wanted to ensure that their
2 existing customer base was not adversely
3 affected by that change in the supply of
4 the product that they were already
5 receiving.
6 Q. Okay. So let's look at the
7 first page, from Nathan Hartle.
8 A. Page --
9 Q. At the bottom, the first
10 page.
11 A. Yes.
12 Q. At the bottom there, this is
13 to you and to Bernard Martin, right?
14 A. Mm-hmm.
15 Q. It says, "Hi, guys. I look
16 at" -- "I took a look this morning and
17 have a few questions/comments. Do we
18 really want to be lowering thresholds
19 right now if the current ones are still
20 within normal levels; i.e., oxy as a
21 percentage of prescriptions?"
22 Do you see that?
23 A. I see that.
24 Q. It says, "With thresholds

<p style="text-align: right;">Page 446</p> <p>1 barely above the average and sometimes 2 lower than the max, this may cause issues 3 like unnecessary omits," right? 4 A. Okay. 5 Q. And so what he's saying here 6 is that if we lower the thresholds, it 7 may cause orders to go unfilled, right, 8 or to be blocked? 9 A. Unnecessarily would indicate 10 that something was blocked when it was 11 for a valid legitimate prescription. 12 Q. The third one says, "I was 13 thinking" -- "I was thinking we would do 14 something more like we did with Rite Aid 15 recently. For example, we used total Rx 16 times the DC norm, for example, hydro, 17 and added a buffer. In Wegmans case we 18 could probably start with a buffer on top 19 of their max amount and then calculate 20 the percent oxy over prescriptions, and 21 if that is below reasonable norm, for 22 example 4 to 5 percent, we should be okay 23 with it. See an example below." Right? 24 So what you did was you</p>	<p style="text-align: right;">Page 448</p> <p>1 would be good with the increase. This 2 way it allows room for growth. And even 3 if they hit the threshold, they would 4 still be at a reasonable norm." 5 Do you see where that's 6 written? 7 A. I see. 8 Q. And so you're setting a 9 threshold here, according to his logic, 10 that would be such a threshold that they 11 wouldn't be expected to exceed, right? 12 A. Well, he's the senior 13 director for RNA. And this is an RNA 14 account. So he's taking them on. And I 15 think he's just bouncing information and 16 an approach off me and another -- a 17 senior director with regard to that 18 customer. 19 Q. Right. And the approach 20 that he's trying to talk about, what 21 you're talking about is the approach to 22 set that initial threshold, correct? 23 A. Right. Yeah. 24 Q. You actually follow up and</p>
<p style="text-align: right;">Page 447</p> <p>1 developed a methodology to set a 2 threshold for this individual client, 3 right? 4 A. I think that with -- Nate 5 came aboard with McKesson sometime in 6 2014. And I think that he was trying to 7 take a statistical approach to the 8 appropriateness of the thresholds that 9 were being calculated for a customer for 10 whom we had not been supplying the entire 11 opioid component. And he was trying to 12 apply 4 or 5 percent being the percentage 13 of oxycodone to total Rx, and calculating 14 what might be an appropriate -- an 15 appropriate threshold, which is really 16 what we do with our automated system 17 these days in part. 18 Q. Okay. And the logic that he 19 puts in here underneath that says, "Take 20 the max and add a buffer, 20 percent. 21 Round up to the nearest 500. Use a 22 threshold and total Rx to calculate oxy 23 over Rx. If the percent is below a 24 reasonable norm, 4 to 5 percent, then we</p>	<p style="text-align: right;">Page 449</p> <p>1 say, "I agree. I don't see any 2 oxycodone/prescription ratios that seem 3 out of line. Would tend to accommodate 4 and continue to evaluate." 5 Right? 6 A. Right. 7 Q. So you agree with his 8 approach of taking the max -- I'm 9 assuming max month to date and add a 10 20 percent buffer to set a threshold? 11 MR. SCHMIDT: Objection to 12 the assumption. 13 THE WITNESS: Again, I don't 14 know what the max refers to. I'm 15 not sure if they're now supplying 16 us with all the oxycodone or how 17 that is being calculated. My 18 recollection is that Wegmans was 19 relatively low in terms of 20 controls to Rx and oxycodone to 21 Rx, which is what that would 22 imply, based on my saying that on 23 a percentage basis, they don't 24 seem to be out of line.</p>

<p style="text-align: right;">Page 450</p> <p>1 BY MR. BOWDEN: 2 Q. Right. So if you flip to 3 the top of the second page, you can see 4 how this formula plays out for Wegmans. 5 Pull up that spreadsheet at the top. 6 Store, Wegmans. You have prescription 7 quantity for three months. 8 2,069,378 units. 9 Do you see that? 10 A. Yes. 11 Q. Oxy has a percentage of 12 total prescriptions of 1.59 percent, 13 right? 14 A. Right. 15 Q. They multiply that together 16 to get the max per month of 11,800, 17 right? 18 A. You're saying 2.06 -- 19 2.07 million times 1.5 percent? 20 Q. I'm sorry. The max per 21 month of 11,800, right? 22 A. Right. I think that's the 23 calculation as he was saying relative to 24 prior experience.</p>	<p style="text-align: right;">Page 452</p> <p>1 that was presented to you, and the one 2 that you agreed with, is when you have a 3 pharmacy coming over to you with a 4 maximum -- 5 A. They were an existing 6 pharmacy. 7 Q. That was moving more of 8 the -- 9 A. Right. 10 Q. -- purchases over to you -- 11 A. Right. 12 Q. -- that has a maximum of 13 11,800, you've come up with a formula 14 that would then set their new threshold 15 at 14,500, right? 16 A. I see that. 17 Q. And the intention -- 18 A. Given that they're 19 1.59 percent, which is relatively low in 20 the scheme of things, though. 21 Q. I understand what you're 22 saying. But that is how you guys came up 23 with the 14,500. You used a 20 percent 24 buffer, and you rounded up to the nearest</p>
<p style="text-align: right;">Page 451</p> <p>1 Q. Correct. I'm sorry. Yeah, 2 the total prescription quantity for three 3 months, if calculated out, the oxycodone 4 percentage as a total of the -- total 5 prescriptions, right, that's the 6 1.59 percent, correct? 7 A. Yeah. I think that's the 8 average of those three months. 9 Q. Right. And then they have a 10 max a month of 11,800, right? 11 A. I believe so. 12 Q. And to set the threshold, 13 they've taken that -- they've added to 14 the maximum amount a buffer of 15 20 percent, and it says in the first 16 step, 14,160, right? 17 A. Okay. 18 Q. And then they round it up, 19 pursuant to his logic as detailed on the 20 first page, to 14,500, right? 21 A. Okay. 22 Q. Are you with me? 23 A. Yeah. 24 Q. All right. So the logic</p>	<p style="text-align: right;">Page 453</p> <p>1 500? 2 A. Okay. 3 Q. And that took their maximum 4 per month that you had collected on your 5 data of 11,800, and you've established a 6 threshold now moving forward of 14,500, 7 correct? 8 A. Those were all Nate's 9 calculations. 10 Q. I understand. But these are 11 ones that you agree with. The very next 12 e-mail on the chain, you say, "I agree." 13 A. I do. 14 Q. And then Bernard responds 15 above that and says, "I also agree with 16 Nate's approach for oxy. How about oxy 17 30? Michael raised a good question. Do 18 you want to impose a 50 percent of oxy 30 19 or total oxy ratio threshold? Would 20 impact only one store." 21 Do you see that? 22 A. I see that. 23 Q. And you respond back, "I 24 think the ratio is a standard and we can</p>

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1 evaluate the reasons for the variance and
2 post a 50 percent and ask about the
3 exception," right?
4 That's what you write back?
5 A. I see that.
6 Q. Yeah. And so what you're
7 saying here is that I agree with that
8 approach, this ratio is -- those are the
9 standard ratios that we use. And what
10 we're going to do is we've developed a
11 threshold that means that only one other
12 store would be concerned, we'll approve
13 it and then ask about the exception,
14 correct?
15 MR. SCHMIDT: Object to the
16 characterization.
17 THE WITNESS: Well, I mean
18 at the end of the day, basically
19 since then, we don't -- we don't
20 have a threshold for oxycodone
21 30-milligram. So that was
22 obviated shortly after this.
23 BY MR. BOWDEN:
24 Q. What's happening in this

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1 e-mail though, is you're coming up with a
2 formula to set a threshold for a customer
3 knowing that the threshold you're setting
4 isn't going to ever be exceeded by any of
5 their stores, right?
6 MR. SCHMIDT: Objection to
7 the characterization.
8 THE WITNESS: I'm not sure
9 that's true.
10 BY MR. BOWDEN:
11 Q. That's the expectation here,
12 right? It allows room for growth and
13 they won't hit the threshold?
14 A. I don't know what Nate was
15 thinking when he said that.
16 Q. Okay. And the way he got to
17 that was by using a 20 percent buffer as
18 one of the variables, correct?
19 A. I see that.
20 Q. I'll hand you what I'll mark
21 as Exhibit Number 40.
22 (Document marked for
23 identification as Exhibit
24 Mahoney-40.)

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1 MR. BOWDEN: Let me find an
2 extra copy here. I only have the
3 one.
4 MR. SCHMIDT: You don't
5 have more?
6 Thank you. Appreciate it.
7 BY MR. BOWDEN:
8 Q. And so that last document
9 that they were looking at, the Wegmans
10 Pharmacy, that was from July of 2014,
11 right?
12 A. Yes.
13 Q. And the very next month,
14 McKesson gets a letter from DEA, right,
15 advising them that they are being
16 investigated for possible civil actions
17 and violations of the CSA, right? You
18 are aware of that?
19 A. I think, yeah.
20 Q. Okay. And so, what I want
21 you to do is turn to Page 11 of
22 Exhibit 40. And underneath Section 1
23 where it says, "McKesson-Aurora
24 manipulated and circumvented thresholds,"

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1 do you see where I'm at, sir?
2 A. Oh yeah. Okay.
3 Q. Okay. That second paragraph
4 down -- well, let's -- let's do the first
5 paragraph together.
6 "Thresholds were supposed to
7 be the linchpin in McKesson's compliance
8 program. But McKesson-Aurora manipulated
9 customers' threshold levels in numerous
10 ways to avoid rigorous internal review."
11 Do you see that?
12 A. Yes.
13 MR. SCHMIDT: Did you mean
14 to give him a highlighted copy?
15 MR. BOWDEN: Absolutely not.
16 MR. SCHMIDT: Okay. I just
17 saw that. Why don't we just move
18 the sticker over if you want. You
19 can give me a clean copy because I
20 already started writing on mine.
21 Do you have a clean copy
22 that you can give us back?
23 MR. BOWDEN: I appreciate
24 the candor.

<p style="text-align: right;">Page 458</p> <p>1 MR. SCHMIDT: All right. He 2 was on Page 11. 3 MR. BOWDEN: Thank you. 4 BY MR. BOWDEN: 5 Q. So let me -- let me re-read 6 that to you. We are on Page 11. 7 Underneath Section 1 it says, "Thresholds 8 were supposed to be the linchpin of 9 McKesson's compliance program, but 10 McKesson-Aurora manipulated customers' 11 threshold levels in numerous ways to 12 avoid rigorous internal review." 13 It continues on. "First, 14 McKesson-Aurora set its initial 15 thresholds for its pharmacy customers 16 very high. McKesson-Aurora review 17 process was not even triggered until an 18 individual pharmacy sold more than 19 10 percent of that pharmacy's average 20 volume for a 12-month period from 2007 to 21 2008, a year in which McKesson had 22 settled claims because diversion was 23 flourishing at McKesson-supplied 24 pharmacies."</p>	<p style="text-align: right;">Page 460</p> <p>1 but that's not what he wrote. 2 Q. Going down to the fourth 3 paragraph down. "In some cases, 4 McKesson-Aurora set some thresholds so 5 high at the outset that the pharmacy 6 customer would never exceed it and thus 7 never trigger any review as to whether an 8 order was indeed suspicious." 9 Do you see that? 10 A. I see it. 11 Q. And so part of what the DEA 12 is criticizing McKesson for is that in 13 the outset, thresholds were being set so 14 high that either the pharmacies will 15 never reach it, or two, is using metrics 16 for establishing the thresholds that are 17 inappropriate such as average volume plus 18 a 10 percent buffer, right? 19 MR. SCHMIDT: Object to the 20 characterization. 21 THE WITNESS: I think back 22 at the time we had indicated to 23 the -- I'm not sure who we may 24 have indicated. But our default</p>
<p style="text-align: right;">Page 459</p> <p>1 Do you see where that's at? 2 A. Yes. 3 Q. And so one of the things DEA 4 is criticizing at McKesson on in August 5 of 2014, is that McKesson was using a 6 buffer of 10 percent on top of the 7 average volume, right? 8 A. I'm not sure if I read that 9 that way. 10 Q. Okay. Well, so it says 11 "until an average pharmacy sold more than 12 10 percent of that pharmacy's average 13 volume from a 12-month period," right? 14 A. Think about that. I mean, 15 10 percent of that pharmacy's average 16 volume from a 12-month period? 17 It doesn't make sense to me. 18 Q. Oh, I'm sorry. Perhaps I am 19 misstating it here. It says, "The 20 average plus the 10 percent volume," 21 right? 22 The average plus the 23 10 percent buffer? 24 A. I'm not sure what he meant,</p>	<p style="text-align: right;">Page 461</p> <p>1 was for 8,000 doses to be the 2 default for a retail pharmacy for 3 hydrocodone. 4 BY MR. BOWDEN: 5 Q. That's not my question 6 though. My question is that the DEA is 7 criticizing McKesson for the way in which 8 it's establishing its initial thresholds, 9 right? 10 A. I understand that. I see 11 that. 12 Q. That's a correct statement, 13 true? 14 A. Yes, he is. 15 Q. Set that aside. 16 I'll hand you what I'm 17 marking as Exhibit Number 41. This will 18 be P-1.1443. 19 (Document marked for 20 identification as Exhibit 21 Mahoney-41.) 22 BY MR. BOWDEN: 23 Q. Is that a question for your 24 counsel or for me?</p>

<p style="text-align: right;">Page 462</p> <p>1 A. Just curious.</p> <p>2 Q. In follow-up to that</p> <p>3 August 2014 letter, the DEA sent another</p> <p>4 letter in November of 2014 talking about</p> <p>5 registration consequences for McKesson</p> <p>6 for violations of the Controlled</p> <p>7 Substances Act, right?</p> <p>8 A. Okay.</p> <p>9 Q. You are aware of that</p> <p>10 letter, aren't you?</p> <p>11 A. I'm not sure if I've seen</p> <p>12 this one.</p> <p>13 Q. Okay. Well, let's go ahead</p> <p>14 and look at -- if you'll flip to the</p> <p>15 second page.</p> <p>16 A. Is this a letter from DEA to</p> <p>17 Covington?</p> <p>18 Q. Mm-hmm. I'll ask you --</p> <p>19 A. I guess I have seen this.</p> <p>20 Yeah, I have seen it.</p> <p>21 Q. You have seen this letter?</p> <p>22 A. Yeah.</p> <p>23 Q. All right. So turn to the</p> <p>24 second page. And the third paragraph</p>	<p style="text-align: right;">Page 464</p> <p>1 seriously than they did after the 2008</p> <p>2 settlement," right?</p> <p>3 And so the time frame</p> <p>4 they're talking about when they are</p> <p>5 hoping that McKesson will take the</p> <p>6 responsibilities under federal law more</p> <p>7 seriously, is the time frame from 2008 to</p> <p>8 2014, correct?</p> <p>9 A. Apparently, yeah.</p> <p>10 Q. The paragraph after that.</p> <p>11 "In order to" -- "in order to release all</p> <p>12 McKesson-owned DEA registrants from</p> <p>13 administrative liability as you have</p> <p>14 requested, the agreed-upon registration</p> <p>15 consequences must reflect not only the</p> <p>16 gravity of the offenses but nationwide</p> <p>17 scope of McKesson's failure to report</p> <p>18 suspicious orders and maintain effective</p> <p>19 controls against diversion."</p> <p>20 Do you see where that's</p> <p>21 written?</p> <p>22 A. Yes.</p> <p>23 Q. And do you agree that the --</p> <p>24 that the procedures that McKesson had in</p>
<p style="text-align: right;">Page 463</p> <p>1 down says that "having been said, we</p> <p>2 remain concerned that McKesson fails to</p> <p>3 appreciate the serious and systemic</p> <p>4 nature of the CSA-related problems that</p> <p>5 DEA has observed in its several</p> <p>6 investigations into your clients'</p> <p>7 operations."</p> <p>8 Do you see where that's</p> <p>9 written?</p> <p>10 A. Yes.</p> <p>11 Q. And ultimately what they are</p> <p>12 doing here is they are going to be</p> <p>13 revoking -- excuse me. Strike that.</p> <p>14 Continues on at the bottom</p> <p>15 of that paragraph. "The loss of business</p> <p>16 that McKesson may experience as a result</p> <p>17 of surrendering DEA CORs is a justified</p> <p>18 and appropriate consequence that is</p> <p>19 consistent with the public interest.</p> <p>20 Among other reasons, we hope that</p> <p>21 McKesson's distribution centers will</p> <p>22 maintain DEA registration after a global</p> <p>23 settlement, will take their</p> <p>24 responsibilities under federal law more</p>	<p style="text-align: right;">Page 465</p> <p>1 place or at least the way in which</p> <p>2 McKesson was acting upon those procedures</p> <p>3 was ineffective against diversion during</p> <p>4 that time period, correct?</p> <p>5 A. I think that we -- we used a</p> <p>6 different method. We were using the</p> <p>7 Level 1, Level 2, Level 3.</p> <p>8 Q. And so in using that method</p> <p>9 that you are talking about, the DEA went</p> <p>10 on in this letter to identify numerous</p> <p>11 distribution centers which had not sent</p> <p>12 any suspicious order reports to DEA,</p> <p>13 right?</p> <p>14 A. He alludes to that.</p> <p>15 Q. Right. And in the last</p> <p>16 paragraph on that page, "As we discussed</p> <p>17 previously, McKesson-Aurora lacked a</p> <p>18 functional suspicious order reporting</p> <p>19 system for approximately five years.</p> <p>20 McKesson-Aurora reported a total of 16</p> <p>21 orders as suspicious in one batch</p> <p>22 occurring in one quarter related to one</p> <p>23 recently terminated pharmacy, while it</p> <p>24 processed a total of 1.6 million orders</p>

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1 for controlled substances from 2008
2 through 2012. This alone demonstrates
3 that it is not operating with any
4 functional system to disclose suspicious
5 orders of controlled substances. The
6 fact that this occurred after McKesson
7 had entered into a settlement agreement
8 with the Department of Justice and DEA in
9 which McKesson committed to report
10 suspicious orders makes the ensuing five
11 years' silence particularly egregious."
12 Do you see where that's
13 written?
14 A. I do.
15 Q. Now, what they are talking
16 about here is the manipulation of
17 thresholds, right?
18 MR. SCHMIDT: Objection.
19 Foundation.
20 BY MR. BOWDEN:
21 Q. That was one of the ways in
22 which McKesson was not flagging anything
23 as a suspicious order report?
24 MR. SCHMIDT: Objection.

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1 Characterization.
2 THE WITNESS: I'm not sure
3 that's the linkage.
4 BY MR. BOWDEN:
5 Q. Let's continue on then to
6 Page 3 here.
7 If you look down about
8 halfway through that first paragraph.
9 Actually, let's read from the top. "Like
10 its Colorado counterpart, McKesson
11 distribution center at Plymouth, Rhode
12 Island" -- "Plymouth Road" -- "Livonia
13 reported no suspicious orders for
14 approximately five years after McKesson's
15 settlement with DOJ."
16 Do you see where that's
17 written?
18 A. I see it.
19 Q. "McKesson" -- how do you
20 pronounce that distribution center name?
21 A. Livonia.
22 Q. Livonia. "McKesson Livonia
23 remained silent even as it supplied 26
24 pharmacies that were utilized in a drug

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1 trafficking conspiracy that has since
2 resulted in a criminal conviction of the
3 owner of these pharmacies."
4 Do you see where that's
5 written?
6 A. Mm-hmm.
7 Q. Continues on that,
8 "McKesson's system to disclose suspicious
9 orders of controlled substances
10 identified none, even when one of Patel's
11 pharmacies, Preferred Care Pharmacy, for
12 example, went from ordering less than
13 4,000 dosage units of hydrocodone
14 products in March and April of 2010 to
15 regularly ordering 16,000 dosage units a
16 month in August 2010 to regularly
17 ordering more than 20,000 dosage units a
18 month in 2011.
19 "The threshold that was
20 supposed to trigger review for suspicious
21 ordering to McKesson instead prompted
22 efforts by McKesson to reset the
23 threshold to enable ever increasing
24 hydrocodone sales."

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1 Do you see where that's
2 written?
3 A. Yes.
4 Q. Go down another line. "Of
5 course, McKesson's failure to detect
6 suspicious orders was not confined to
7 pharmacies in the Patel criminal
8 conspiracy."
9 Do you agree with that
10 statement?
11 A. I am not sure. I don't know
12 anything about Livonia.
13 Q. Let's go down to the next
14 paragraph. "McKesson's systemic failures
15 were also evident at the distribution
16 center at Washington Courthouse, Ohio."
17 Was that underneath your
18 purview?
19 A. No.
20 Q. "Here again, McKesson did
21 not report any orders as suspicious for
22 years after 2008 settlement with the DOJ
23 and DEA. When DEA began to investigate
24 the silence, McKesson regional director

<p style="text-align: right;">Page 470</p> <p>1 of regulatory affairs told DEA 2 investigators that he did not know what a 3 suspicious order was and protested that 4 DEA had not adequately defined the term." 5 Do you see where that's 6 written? 7 A. I see. 8 Q. Do you agree that McKesson 9 didn't know what a suspicious order was 10 at that time? 11 A. I think that we -- we were 12 using the Level 1, Level 2, Level 3 13 system before we reported to the DEA. 14 Q. Right. And in using that 15 system, there are very few suspicious 16 orders actually being transmitted to the 17 DEA, correct? 18 A. I see that. 19 Q. Okay. If you flip forward 20 to Page 4. The first paragraph is, 21 "McKesson's system to detect suspicious 22 orders also fell short at the 23 distribution center at Lakeland, 24 Florida."</p>	<p style="text-align: right;">Page 472</p> <p>1 between 2008 and 2013, that's a five-year 2 period that they're talking about, right? 3 A. Yes. 4 Q. "Further, as an example, 5 McKesson-Lakeland's conduct with regard 6 to two of its pharmacy customers 7 establishes lack of maintenance of 8 effective controls against diversion." 9 Right? 10 A. I see that. 11 Q. And do you agree with that, 12 that at the time McKesson-Lakeland's 13 controls to prevent diversion were 14 insufficient? 15 A. I visited both these 16 pharmacies, and I did not observe any 17 activity that caused me to believe that 18 there was suspicious activity going on. 19 I was at Oviedo several times, in fact. 20 Q. You disagree? 21 A. I'm just saying what I saw 22 is a very good example of why it's hard 23 for a DC to see the same things in terms 24 of diversion with the data that we have</p>
<p style="text-align: right;">Page 471</p> <p>1 And that was one of the 2 distribution centers in which you had 3 responsibilities for, right? 4 A. Yes. 5 Q. "McKesson-Lakeland, once 6 again in derogation of its 7 responsibilities under the CSA and the 8 2008 MOA, McKesson-Lakeland failed to 9 report and suspicious orders to DEA for a 10 five-year period." 11 Do you see where that's 12 written? 13 A. I see what -- a word's 14 missing, I guess. 15 Q. Yeah, there was a word that 16 was odd there. But it did -- I read it 17 correctly in that, "Once again in 18 derogation of its responsibilities under 19 the CSA and the 2008 MOA, 20 McKesson-Lakeland failed to report and 21 suspicious orders to DEA for a five-year 22 period?" 23 A. I see it. 24 Q. Would you agree with me</p>	<p style="text-align: right;">Page 473</p> <p>1 available to us including customer 2 visits, discussions with PIC and other 3 tracking information. 4 Q. If you go on to Page 5, the 5 first full paragraph, "As noted above." 6 You with me? 7 A. "As noted above." 8 Q. "As noted above, the 9 examples are illustrative, not 10 exhaustive. They are not meant to 11 illustrate what we mean" -- "what we mean 12 when we say that we will be driven by the 13 evidence that we could present in 14 administrative proceedings against these 15 registrants. We have attempted to 16 highlight this evidence in hopes that you 17 and your client fully understand why DEA 18 believes that the failings of McKesson 19 were as systematic as they were serious." 20 Do you see that? 21 A. I see it. 22 Q. And this is in 2014, right? 23 A. Yes. 24 Q. And one of the examples that</p>

<p style="text-align: right;">Page 474</p> <p>1 they illustrate is that thresholds and 2 lack of SORs being reported to the DEA, 3 right? 4 A. When you say thresholds, 5 what do you mean by that? 6 Q. Manipulation of thresholds, 7 correct? 8 MR. SCHMIDT: Object to the 9 characterization. 10 THE WITNESS: Yeah, I see 11 that. 12 BY MR. BOWDEN: 13 Q. Set that one aside. And 14 ultimately, these systematic 15 shortcomings, they resulted in a 16 settlement in 2017, right? 17 A. Yes. 18 Q. I'm going to hand you what 19 I'll mark as Exhibit Number 42. 20 (Document marked for 21 identification as Exhibit 22 Mahoney-42.) 23 BY MR. BOWDEN: 24 Q. On the first page, you can</p>	<p style="text-align: right;">Page 476</p> <p>1 from the DEA stating the DEA was 2 separately pursuing administrative action 3 against McKesson-Aurora for the conduct 4 outlined in the August 13, 2014, letter." 5 Do you see that? 6 A. Yes. 7 Q. And they go -- 8 A. The prior letter? 9 Q. Right. 10 A. Okay. 11 Q. Again, here they're talking 12 about how the failure to design and 13 operate a system to disclose to the 14 registrant's suspicious orders of 15 controlled substances was national in 16 scope, correct? 17 A. National in scope? 18 Q. Right. What they're 19 describing here, again, is the 20 shortcomings that were national in scope 21 for McKesson. These were systemic issues 22 that applied to all the distribution 23 centers, correct? 24 A. I'm not sure about all of</p>
<p style="text-align: right;">Page 475</p> <p>1 see this is the administrative memorandum 2 of agreement. It's between the DEA and 3 McKesson Corporation, right? 4 A. Yes. 5 Q. And in the background 6 section, in Section Number 5, you can see 7 that there were -- read that together. 8 "Between March 2013 and the present, DEA 9 executed one additional AIW and served 10 numerous administrative subpoenas and 11 conducted a number of cyclic inspections 12 at various McKesson U.S. pharmaceutical 13 distribution centers Nationwide, 14 including McKesson Washington Courthouse, 15 Ohio, distribution center, McKesson 16 Livonia, Lakeland, and Aurora." 17 Do you see that? 18 A. Yes. 19 Q. On Page 2, you see Bullet 20 Point Number 7? 21 A. Page 2, Number 7. 22 Q. It cites that, "On" -- "On 23 or about November 14, 2014, McKesson 24 received a letter dated November 4, 2014,</p>	<p style="text-align: right;">Page 477</p> <p>1 them, but more than -- more than a few. 2 Q. Go on to Page 3. As part of 3 this agreement, McKesson did accept 4 responsibility. You're aware of that, 5 right? 6 A. I'm not sure the details of 7 the settlement. 8 Q. Well, let's look at 9 bullet -- 10 A. You're talking about Number 11 2 there? 12 Q. Right. Number 2, acceptance 13 of responsibility. 14 A. Mm-hmm. 15 Q. The -- halfway down, it 16 says, "McKesson acknowledges that at 17 various times during the period from 18 January 1, 2009, up through and including 19 the effective date of this agreement, it 20 did not identify or report to DEA certain 21 orders placed by certain pharmacies which 22 should have been detected by McKesson as 23 suspicious based on the guidance 24 contained in the DEA letters about the</p>

<p style="text-align: right;">Page 478</p> <p>1 requirements set forth in the CSA, right?</p> <p>2 A. Yes.</p> <p>3 Q. Underneath that on or</p> <p>4 about -- excuse me. Strike that.</p> <p>5 So you understand as you sit</p> <p>6 here today that some of the issues that</p> <p>7 we've been covering, those systemic</p> <p>8 failures, were systemic failures that you</p> <p>9 had some responsibility for as well,</p> <p>10 right?</p> <p>11 MR. SCHMIDT: Object to the</p> <p>12 characterization.</p> <p>13 THE WITNESS: I think what</p> <p>14 they're saying is that our Level</p> <p>15 1, Level 2, Level 3 system was --</p> <p>16 was not working and that they</p> <p>17 wanted us to report in a different</p> <p>18 way, and we're doing that now.</p> <p>19 BY MR. BOWDEN:</p> <p>20 Q. Right. And the system that</p> <p>21 has been set up for establishing</p> <p>22 thresholds, that was a system that was</p> <p>23 resulting in too high of thresholds being</p> <p>24 set in the first place, was one of the --</p>	<p style="text-align: right;">Page 480</p> <p>1 threshold -- the relation of thresholds,</p> <p>2 SORs were not issued and given to the</p> <p>3 DEA, right?</p> <p>4 MR. SCHMIDT: Object to the</p> <p>5 characterization.</p> <p>6 THE WITNESS: Suspicious</p> <p>7 order reports?</p> <p>8 BY MR. BOWDEN:</p> <p>9 Q. Correct.</p> <p>10 MR. SCHMIDT: Same</p> <p>11 objection.</p> <p>12 THE WITNESS: Can you repeat</p> <p>13 the question?</p> <p>14 BY MR. BOWDEN:</p> <p>15 Q. Sure. Another item they</p> <p>16 took issue with was the fact that</p> <p>17 McKesson should have been reporting</p> <p>18 suspicious orders and was failing to do</p> <p>19 so, right?</p> <p>20 A. Yes.</p> <p>21 Q. And if you go down to the</p> <p>22 bottom of Page 3, says, "McKesson failed</p> <p>23 to maintain effective controls against</p> <p>24 diversion of particularly controlled</p>
<p style="text-align: right;">Page 479</p> <p>1 one of the issues they took, right?</p> <p>2 MR. SCHMIDT: Object to the</p> <p>3 characterization.</p> <p>4 THE WITNESS: I notice that</p> <p>5 in that other one, the guy said</p> <p>6 that it was set at 8,000 when</p> <p>7 their average was much lower. I</p> <p>8 saw that.</p> <p>9 BY MR. BOWDEN:</p> <p>10 Q. Right. And there was other</p> <p>11 instances in which initial thresholds</p> <p>12 were set so high that customers would</p> <p>13 never reach the thresholds. And that was</p> <p>14 another issue they had, correct?</p> <p>15 MR. SCHMIDT: Object to the</p> <p>16 characterization.</p> <p>17 THE WITNESS: I agree with</p> <p>18 what you're saying about the</p> <p>19 concern about thresholds that were</p> <p>20 too high being expressed in that</p> <p>21 letter.</p> <p>22 BY MR. BOWDEN:</p> <p>23 Q. Right. And as a result of</p> <p>24 that, and in part as a result of the</p>	<p style="text-align: right;">Page 481</p> <p>1 substances into other legitimate medical,</p> <p>2 scientific, and industrial channels by</p> <p>3 sales of certain" -- "by sales to certain</p> <p>4 of its customers in violation of the CSA</p> <p>5 and the CSA implementing regulations."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And then it gives a list of</p> <p>9 some of those distribution centers that</p> <p>10 failed to maintain effective controls</p> <p>11 against diversions, right?</p> <p>12 A. Yes.</p> <p>13 Q. And Lakeland, Florida, is</p> <p>14 one of those distribution centers, right?</p> <p>15 A. I see that.</p> <p>16 Q. And Lakeland, Florida, was</p> <p>17 one of the distribution -- distribution</p> <p>18 centers of which you had responsibility</p> <p>19 for during that time period, right?</p> <p>20 A. Yes.</p> <p>21 Q. In fact, during that entire</p> <p>22 time period from 2008 up until this</p> <p>23 agreement was signed in 2017, you had</p> <p>24 responsibility for Lakeland, Florida,</p>

<p style="text-align: right;">Page 482</p> <p>1 right?</p> <p>2 A. From a regulatory</p> <p>3 perspective?</p> <p>4 Q. Correct.</p> <p>5 A. Yes.</p> <p>6 Q. Now, as a result of this</p> <p>7 action, if you turn to Page 7, bullet</p> <p>8 point G. G, yes.</p> <p>9 "McKesson agrees that its</p> <p>10 authority to distribute controlled</p> <p>11 substances containing the drug code for</p> <p>12 Schedule II hydromorphone products, that</p> <p>13 is DEA drug code 9150 from its</p> <p>14 McKesson-Lakeland distribution center,</p> <p>15 DEA certificate of registration</p> <p>16 PM0000771, will be suspended for a period</p> <p>17 of one year commencing from the effective</p> <p>18 date of the agreement except for orders</p> <p>19 placed by permitted registrants."</p> <p>20 Do you see that there?</p> <p>21 A. I do.</p> <p>22 Q. So as part of the penalty</p> <p>23 for Lakeland distribution center not</p> <p>24 appropriately sending suspicious order</p>	<p style="text-align: right;">Page 484</p> <p>1 your microphones. The time is</p> <p>2 6:02 p.m. Going off the record.</p> <p>3 (Short break.)</p> <p>4 THE VIDEOGRAPHER: We are</p> <p>5 back on the record. The time is</p> <p>6 6:14 p.m.</p> <p>7 - - -</p> <p>8 EXAMINATION</p> <p>9 - - -</p> <p>10 BY MR. SCHMIDT:</p> <p>11 Q. Mr. Mahoney, my name is Paul</p> <p>12 Schmidt. I represent McKesson in this</p> <p>13 case. We've been here for a very long</p> <p>14 day. We're now into the evening, and</p> <p>15 upside, so I'm going to be targeted in my</p> <p>16 questions to you.</p> <p>17 Can you tell the jury how</p> <p>18 long you have been at McKesson.</p> <p>19 A. Almost 18 years. 17 to</p> <p>20 18 years.</p> <p>21 Q. And what is it about your</p> <p>22 work at McKesson that's made you stay</p> <p>23 there for that period of time?</p> <p>24 A. Has good culture, and I</p>
<p style="text-align: right;">Page 483</p> <p>1 reports to the DEA, their license to</p> <p>2 distribution center Schedule II products</p> <p>3 was suspended for a period of one year,</p> <p>4 right?</p> <p>5 MR. SCHMIDT: I'll object to</p> <p>6 the characterization.</p> <p>7 THE WITNESS: Hydrocodone,</p> <p>8 or hydromorphone?</p> <p>9 BY MR. BOWDEN:</p> <p>10 Q. Hydromorphone.</p> <p>11 A. Was suspended for one year.</p> <p>12 So that was a very narrow -- that's --</p> <p>13 that's one base code.</p> <p>14 Q. Right. And that has a -- a</p> <p>15 direct impact on McKesson's sales,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And ultimately, as a</p> <p>19 result of the settlement agreement,</p> <p>20 McKesson agreed to pay \$150 million fine,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 MR. BOWDEN: Take a break.</p> <p>24 THE VIDEOGRAPHER: Remove</p>	<p style="text-align: right;">Page 485</p> <p>1 think the mission is something that I</p> <p>2 enjoy, empowering healthcare.</p> <p>3 Q. Can you describe for the</p> <p>4 jury the role that McKesson</p> <p>5 Pharmaceutical place in how prescription</p> <p>6 medicines get from the companies that</p> <p>7 make them to patients?</p> <p>8 A. McKesson buys</p> <p>9 pharmaceuticals from lots of different</p> <p>10 manufacturers and brings them into our</p> <p>11 local DC where customers, i.e.,</p> <p>12 pharmacies and hospitals, are able to</p> <p>13 order them for next-day delivery so they</p> <p>14 have them when they need them.</p> <p>15 Q. Does McKesson</p> <p>16 Pharmaceutical's work focus on</p> <p>17 interacting directly with doctors?</p> <p>18 A. Not generally, no.</p> <p>19 Q. Do you have an understanding</p> <p>20 of -- about whether when McKesson ships a</p> <p>21 prescription medicine to a pharmacy, a</p> <p>22 patient is only able to get that medicine</p> <p>23 from the pharmacy if they've seen a</p> <p>24 doctor and the doctor has made a judgment</p>

<p style="text-align: right;">Page 486</p> <p>1 that that patient should get a 2 prescription for that medicine? 3 MR. BOGLE: Object to form. 4 THE WITNESS: McKesson 5 provides the supply for pharmacies 6 who are responding to scripts that 7 patients bring them generated by a 8 doctor. 9 BY MR. SCHMIDT: 10 Q. If a physician is writing 11 more prescriptions for opioids, does that 12 increase the overall distribution level 13 for opioids? 14 MR. BOGLE: Object to form. 15 THE WITNESS: Can you repeat 16 that. 17 BY MR. SCHMIDT: 18 Q. Yeah, if physicians write 19 more prescriptions for opioids, does that 20 increase the overall level of 21 distribution of opioids? 22 A. Yes. 23 MR. BOGLE: Object to form. 24 BY MR. SCHMIDT:</p>	<p style="text-align: right;">Page 488</p> <p>1 been talking about true for opioids as 2 well as other prescription medicines that 3 McKesson distributes? 4 A. Yes. 5 Q. And can you give us a sense 6 of whether, from your experience, opioids 7 are a substantial majority, a majority, a 8 minority, a substantial minority of the 9 medicines that McKesson distributes? 10 MR. BOGLE: Object to form. 11 THE WITNESS: Substantial 12 minority. 13 BY MR. SCHMIDT: 14 Q. Do you have an understanding 15 of the responsibility that a pharmacy has 16 in terms of when they pass along an 17 opioid to a patient that they have 18 purchased from McKesson? 19 A. Do I -- 20 MR. BOGLE: Object to form. 21 BY MR. SCHMIDT: 22 Q. Do you understand the 23 responsibility that a pharmacy has when 24 they pass along an opioid purchased from</p>
<p style="text-align: right;">Page 487</p> <p>1 Q. Does your level of 2 distribution follow from what 3 prescriptions do, or do you actually 4 influence what prescriptions -- what 5 physicians do? 6 MR. BOGLE: Object to form. 7 BY MR. SCHMIDT: 8 Q. And let me re-ask it. I 9 think I misspoke in my question. 10 Does your level of 11 distribution follow from decisions that 12 physicians make, or do you actually 13 influence the decisions physicians 14 make -- 15 MR. BOGLE: Object to form. 16 BY MR. SCHMIDT: 17 Q. -- in terms of prescribing 18 medicines? 19 A. In the distribution center 20 we don't have any influence on 21 prescribing habits. We are just 22 responding to what is pulled from us by 23 the pharmacies. 24 Q. Is this role that you've</p>	<p style="text-align: right;">Page 489</p> <p>1 McKesson to a patient? 2 A. Yes. They have 3 corresponding responsibility. 4 Q. Is part of your work -- does 5 part of your work involve trying to 6 identify where pharmacies might not be 7 meeting their responsibilities in terms 8 of whether you interact with those 9 pharmacies? 10 A. Yes. 11 Q. And you've discussed 12 McKesson's regulatory programs today. Am 13 I understanding correctly from your 14 testimony over the course of the day that 15 McKesson's programs for doing diligence 16 into pharmacies have changed over time? 17 A. Yes. 18 Q. Have developed? 19 A. Yes. 20 Q. What are those changes made 21 in response to? 22 A. They've been made to give us 23 greater granularity of what we see in a 24 pharmacy as they are buying from us and</p>

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1 dispensing to their patients.
2 Q. Are those changes made as
3 you develop more information about
4 practices with regards to opioids,
5 concerns about diversions, information
6 you get from your diligence, things like
7 that?
8 MR. BOGLE: Object to form.
9 THE WITNESS: Yes.
10 BY MR. SCHMIDT:
11 Q. Have some of the changes
12 included better ways of tracking data;
13 that is, you learn what is important with
14 regard to opioids?
15 A. Yes.
16 Q. Do you have a view as to
17 whether that's a good thing to try to
18 improve your processes over time?
19 MR. BOGLE: Object to form.
20 THE WITNESS: It's
21 absolutely a good thing.
22 BY MR. SCHMIDT:
23 Q. Let's take one example. You
24 have Exhibit 26, please.

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1 MR. BOGLE: Can you give me
2 the corresponding -- the other
3 exhibit number at the bottom?
4 MR. SCHMIDT: The Bates
5 number?
6 MR. BOGLE: No.
7 MR. SCHMIDT: It's 1743, I
8 think you're thinking of.
9 MR. BOGLE: Yeah.
10 BY MR. SCHMIDT:
11 Q. And if you look at Page 26
12 of this exhibit.
13 A. 26?
14 Q. I'm sorry. Page 7 of this
15 exhibit. This is a page that you were
16 asked about. It's a slide showing
17 significant enhancements to CSMP.
18 Do you see that?
19 A. Yes.
20 Q. And you were asked about the
21 fact that at this time, around 2013,
22 there were key enhancements underway.
23 Do you see that?
24 A. Yes.

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1 Q. Okay. On the right -- on
2 the left-hand side -- strike that.
3 Is that a good thing, to
4 have enhancements over time, in your
5 view?
6 MR. BOGLE: Object to form.
7 THE WITNESS: Yes.
8 BY MR. SCHMIDT:
9 Q. On the left-hand side, it
10 says, "Core elements remain the same."
11 Did I read that correctly?
12 A. Yes.
13 Q. One of those core elements
14 that remains the same is customer
15 diligence.
16 Did I read that correctly?
17 A. Yes.
18 Q. Another one is monitoring
19 against suspicious orders.
20 Did I read that correctly?
21 A. Yes.
22 Q. Have those always been core
23 parts of McKesson's work in your
24 experience at McKesson?

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1 A. Yes.
2 Q. In talking about how your
3 processes have developed over time, has
4 the guidance from the DEA that you have
5 received changed over time?
6 MR. BOGLE: Object to form.
7 THE WITNESS: Yes.
8 BY MR. SCHMIDT:
9 Q. Let's look at an example of
10 that. Could you take a look at
11 Exhibit 25, which is 1962. If you look
12 at Page 3 of 235, this is a page that you
13 were asked about by the plaintiffs'
14 attorneys that says, "Program Guide For
15 Pharmacies."
16 Do you have Page 3 in front
17 of you there?
18 A. Yes.
19 Q. Under program details, the
20 second sentence says, "Those regulations
21 have not changed, but the extent to which
22 wholesalers are now required to monitor
23 and enforce the legitimate use of
24 controlled substances has."

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1 Did I read that correctly?

2 A. Yes.

3 Q. Is that your experience,

4 that the regulations haven't changed, but

5 the directives that you've received from

6 DEA in terms of requirements to monitor

7 and enforce the legitimate use of

8 controlled substances has changed over

9 time?

10 MR. BOGLE: Object to form.

11 THE WITNESS: Yes.

12 BY MR. SCHMIDT:

13 Q. Does this document get at

14 this idea we were talking about? Does it

15 speak to this idea we were talking about,

16 about even though the regulations don't

17 change, the direction you're getting from

18 DEA has changed over time?

19 MR. BOGLE: Object to form.

20 THE WITNESS: Yes.

21 BY MR. SCHMIDT:

22 Q. Let me focus on some of your

23 work as a director of regulatory affairs

24 or a DRA. As part of your work as a DRA,

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1 do you conduct diligence on McKesson's

2 customers?

3 A. Yes.

4 Q. And just so we have it, are

5 McKesson customers pharmacies?

6 A. Yes.

7 Q. How often --

8 A. In my sphere, yes.

9 Q. How often do you conduct

10 diligence on McKesson's customers?

11 MR. BOGLE: Object to form.

12 THE WITNESS: It's part of

13 my everyday job.

14 BY MR. SCHMIDT:

15 Q. Has the amount of diligence

16 consistent with what we've been talking

17 about grown over time?

18 A. Yes.

19 Q. Why is that?

20 A. Multiple additions in terms

21 of adding best practice to the diligence

22 that we do.

23 Q. Do you have colleagues who

24 help with that diligence?

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1 A. Yes.

2 Q. Has the number of colleagues

3 grown over time?

4 A. Yes.

5 Q. And why is that?

6 A. Better coverage, and also

7 there's a lot more analytic firepower

8 that's devoted to the tools that we use.

9 Q. Can you give us a sense of

10 some of the steps that you take as part

11 of diligence into your customers?

12 A. Yeah. We establish what the

13 background is of the situation. We take

14 a look at licensure and registration,

15 capturing all the information related to

16 the pharmacy, not just the PIC for

17 example, but the techs, the other

18 pharmacists, the owner.

19 We do some documentation on

20 if they are excluded from the OIG, do

21 some internet checks. We talk to them

22 about their corresponding responsibility,

23 how they -- how they do -- what they do

24 when they see a sample transaction. What

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1 they do if they see a doctor that has a

2 problem. That kind of thing.

3 We take a look at both the

4 purchase and the dispensing history. And

5 we try to put them together and make sure

6 that they -- they make sense to us.

7 Q. Has that level of diligence

8 grown over time?

9 A. Yes.

10 Q. In your experience when

11 you're evaluating a pharmacy, is it a

12 black-and-white question as to whether

13 the pharmacy's practices are problematic?

14 MR. BOGLE: Object to form.

15 THE WITNESS: It's -- it's

16 great. It's hard to -- to see

17 sometimes.

18 BY MR. SCHMIDT:

19 Q. Tell me what you mean by

20 that in terms of your evaluation of

21 pharmacies.

22 A. When we look at a pharmacy,

23 we can see the big picture view, some

24 statistical information. But, you know,

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1 I think as we've discussed before, we
 2 can't see the transaction as it's taking
 3 place. The context of the people
 4 arriving, where they are coming from, a
 5 variety of other factors. And we can't
 6 look at the scripts the same way the DEA
 7 can if they make a visit or a state
 8 inspector.
 9 And that would be valuable
 10 information to have. But we take the
 11 information that's available to us and
 12 digest it as well as we can.
 13 Q. Let me give you an example.
 14 You were asked earlier about a point in
 15 time where DEA raised the question of a
 16 flag marker of 5,000 per month. Do you
 17 remember being asked questions --
 18 A. For hydrocodone?
 19 Q. Yeah.
 20 A. Yeah.
 21 Q. Okay. Do you remember being
 22 asked questions about that by the
 23 plaintiff lawyer?
 24 A. Yes.

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1 Q. Is that a realistic marker
 2 for all pharmacies?
 3 MR. BOGLE: Object to form.
 4 BY MR. SCHMIDT:
 5 Q. In your view?
 6 A. I think there are a lot of
 7 factors that -- that contribute to the
 8 picture that we're looking at. Including
 9 size, location, the venue. What might be
 10 next door. That kind of thing.
 11 Q. So in your experience can
 12 you take a one size fits number like that
 13 and apply it to all pharmacies?
 14 MR. BOGLE: Object to form.
 15 THE WITNESS: I don't think
 16 so.
 17 BY MR. SCHMIDT:
 18 Q. And, in fact, did you have
 19 occasions over time where the DEA gave
 20 you different numbers --
 21 MR. BOGLE: Object to form.
 22 BY MR. SCHMIDT:
 23 Q. -- than 5,000 per month?
 24 A. Depending on the time frame,

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1 I think we did see different numbers.
 2 Q. Were they higher or lower?
 3 A. I think for hydrocodone they
 4 tend to be higher.
 5 Q. Let me talk about some of
 6 the specifics of work that you do in your
 7 diligence. Are there instances where you
 8 investigate a pharmacy before you do
 9 business with them and you decline -- you
 10 ultimately decline to do business with
 11 them?
 12 A. Yes.
 13 Q. Can you give us a sense of
 14 how often that happens across -- has
 15 happened across your career, just
 16 ballpark?
 17 A. I don't know, 50 or 100
 18 times.
 19 Q. Okay. Are there instances
 20 where you're doing business with a
 21 pharmacy and you make the judgment that
 22 you should not continue to do business
 23 with them?
 24 A. Yes.

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1 Q. Can you give us a sense of
 2 how often that's happened over the course
 3 of your career?
 4 A. A hundred.
 5 Q. You talked about -- you were
 6 asked some questions about blocking
 7 orders. Do you remember being asked
 8 questions about blocking orders?
 9 A. I believe so.
 10 Q. Have you, as part of your
 11 work at McKesson, been involved in orders
 12 that are blocked from going out?
 13 A. Omitted. Yeah. Yeah.
 14 Absolutely.
 15 Q. Can you give us a sense of
 16 how many that's been?
 17 A. I think that with our omits
 18 and -- over -- tens of thousands.
 19 Q. And in some instances do you
 20 conduct diligence and determine that
 21 further sales are appropriate with those
 22 blocked orders?
 23 A. If the customer submits a
 24 TCR.

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1 Q. Okay. And in other
2 instances does the product never go out?
3 MR. BOGLE: Object to form.
4 THE WITNESS: Yes, it does
5 not.
6 BY MR. SCHMIDT:
7 Q. Do you have Exhibit 1 handy?
8 Do you remember being asked questions
9 about this 2006 letter from the DEA by
10 the plaintiff lawyer?
11 A. Yes.
12 Q. And if you look at the
13 second page of this letter -- it's 1464.
14 If you look at the second page of this
15 letter, about halfway down the letter,
16 before and after the block quote is
17 language getting at this idea of blocking
18 orders. Do you see that? Do you
19 remember being asked questions about
20 that?
21 A. Yes.
22 Q. When the DEA started raising
23 questions with you in 2006 about blocking
24 orders, in addition to reporting

Page 503

1 suspicious orders, was -- was that idea
2 of being required to block orders new to
3 you?
4 MR. BOGLE: Object to form.
5 THE WITNESS: Yes. I think
6 we'd been reporting typically.
7 BY MR. SCHMIDT:
8 Q. How so, tell me about that.
9 A. Via the DU-45.
10 Q. Okay. Tell me about the
11 blocked order piece of that.
12 A. The -- in 2006 or -- 2006?
13 Q. Mm-hmm.
14 A. We -- the DU-45 was a report
15 that was generated based on the order
16 pattern up to that point in the month.
17 And what had happened, it hadn't been
18 filled.
19 Q. Okay.
20 A. And we didn't -- we didn't
21 have the same ability systemically to
22 block an order.
23 Q. When DEA told you in 2006
24 that they wanted you to start blocking

Page 504

1 orders, did McKesson start to put in
2 place systems to be able to do that?
3 A. Yes.
4 Q. And does McKesson do that
5 now, block orders?
6 A. Yes. We did it first
7 manually. And then automated via the
8 CSMP system.
9 Q. Okay. Is that an example of
10 what we were talking about a few minutes
11 ago with the rules don't change but
12 sometimes what DEA tells you about them
13 changes?
14 MR. BOGLE: Object to form.
15 THE WITNESS: Yes.
16 BY MR. SCHMIDT:
17 Q. You were asked some
18 questions about documentation you might
19 generate in connection with a TCR. Do
20 you remember that?
21 A. Yes.
22 Q. When you would make a
23 judgment on a TCR, you would have a form
24 and we looked at a few examples of those.

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1 A. Yes.
2 Q. Do you remember that?
3 A. Yes.
4 Q. Would you limit yourself to
5 that form or would you draw on all the
6 information you had about the pharmacy?
7 MR. BOGLE: Object to form.
8 THE WITNESS: In making a
9 decision, I would -- it would be
10 based on what I know about the
11 pharmacy, other conversations I
12 might have had, either with the
13 rep, with the pharmacist themselves,
14 and other information or reports
15 that I could have seen.
16 BY MR. SCHMIDT:
17 Q. Would that -- would your
18 decision on a TCR consider or not
19 consider information you had from prior
20 interactions and prior diligence
21 regarding that pharmacy?
22 MR. BOGLE: Object to form.
23 THE WITNESS: I think that
24 there would be -- there would be

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1 consideration of the context, my
2 experience.
3 BY MR. SCHMIDT:
4 Q. Okay. So let's take one of
5 the examples that you were shown or maybe
6 the example you were shown, Exhibit 29
7 which was the Giant Eagle one. 1866.
8 First of all, where did this
9 fit timingwise in terms of your CSMP
10 program?
11 A. This is very early. I'd say
12 within the first eight or ten months.
13 Q. In an instance like this,
14 where you had these TCR requests, would
15 you limit your consideration to just what
16 was on the face of the page that you were
17 given?
18 A. No. No. I'm not sure about
19 the timing. But I had had a number of
20 conversations with -- with Greg Carlson
21 and other people from Giant Eagle.
22 Q. In the time that you've
23 served as director of regulatory affairs,
24 am I correct that your territory is

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1 focused on the Southeastern United
2 States?
3 A. That's true.
4 Q. Have you, other than filling
5 in for people or doing backup duty,
6 has -- has the primary focus of your work
7 ever been on Ohio?
8 A. Well --
9 Q. On Cuyahoga County or Summit
10 County in Ohio?
11 A. Not specifically. Although
12 my RNA coverage at the time included
13 Giant Eagle.
14 Q. Did you have primary
15 responsibility for opening or closing any
16 pharmacies in Cuyahoga or Summit County?
17 A. No, I didn't.
18 Q. You talked about something
19 called ARCOS, the ARCOS reporting system,
20 and I want to ask you a couple questions
21 about that.
22 What is the ARCOS reporting
23 system?
24 A. It's an automated system

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1 that we use to report to the DEA all of
2 our purchases and distributions from the
3 DC. We do it on a monthly basis.
4 Q. Okay. And is it your
5 understanding from your work at McKesson
6 that McKesson has, in fact, done that,
7 reported all of its opioid sales to the
8 ARCOS system?
9 MR. BOGLE: Object to form.
10 THE WITNESS: Yeah.
11 BY MR. SCHMIDT:
12 Q. If -- if an order is not
13 separately flagged as suspicious, does it
14 still get reported to the ARCOS reporting
15 system?
16 A. Yes. All C-IIs and some
17 C-IIIs are required.
18 Q. Do you have an understanding
19 as to whether other distributors are
20 similarly required to report their data
21 to ARCOS?
22 A. Yes, they are.
23 Q. Do you have access to that
24 data regarding what the other

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1 distributors submit to ARCOS?
2 A. No.
3 Q. Who does have access to that
4 data?
5 A. The DEA. I think some
6 states demand that kind of information
7 from distributors now, but the DEA has
8 had it.
9 Q. So in your position at
10 McKesson, do you have a ready way to
11 determine how many opioids are going into
12 a given jurisdiction or location --
13 MR. BOGLE: Object to form.
14 BY MR. SCHMIDT:
15 Q. -- among distributors?
16 MR. BOGLE: Object to form.
17 THE WITNESS: A given
18 pharmacy?
19 BY MR. SCHMIDT:
20 Q. No, a given area. A state
21 or a city or something like that?
22 MR. BOGLE: Object to form.
23 BY MR. SCHMIDT:
24 Q. So let me re-ask the

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1 question.
2 In your position at
3 McKesson, do you know how many opioids
4 you are providing in a given city,
5 correct?
6 A. Correct.
7 Q. Do you know how many other
8 distributors are providing?
9 A. No.
10 Q. Let's talk about suspicious
11 order reporting.
12 You've referred a couple
13 times to something called DU-45. Tell us
14 what DU-45s do with respect to suspicious
15 order reporting.
16 A. It was a system that was
17 developed between the DEA -- a task force
18 including DEA people and various
19 distributors, and it compares purchases
20 for a pharmacy with their historic moving
21 average and records and reports them at
22 different levels for submission to the
23 DEA.
24 Q. And was there a period of

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1 time where you would regularly submit
2 those to the DEA?
3 A. Yes.
4 Q. Roughly speaking, what --
5 when was that?
6 A. Since I started to -- I
7 believe it was around '08 or '09.
8 MR. SCHMIDT: Does someone
9 have the last exhibit number?
10 I'll call this Exhibit 50.
11 (Document marked for
12 identification as Exhibit
13 Mahoney-50.)
14 BY MR. SCHMIDT:
15 Q. I've marked as Exhibit 50 a
16 document --
17 MR. SCHMIDT: I'll pass it
18 down. I'm sorry, I need that
19 back. Apologies.
20 BY MR. SCHMIDT:
21 Q. I've marked as Exhibit 50 a
22 document that is from you to Kenneth
23 Boggess at the DEA. Do you see that?
24 A. Yes.

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1 Q. Is this, in fact, a memo you
2 prepared to Mr. Boggess of the DEA in
3 March of 2007?
4 A. Yes.
5 Q. You write in the second
6 line -- well, in the first line you said,
7 "The monthly report that McKesson uses in
8 scanning incoming orders for suspicious
9 orders employs the original guidelines
10 framed by the DEA's suspicious orders
11 task force."
12 Do you see that?
13 A. Yes.
14 Q. Does that relate to DU-45s
15 at all?
16 A. Yes.
17 Q. And what is the
18 relationship?
19 A. It provides the basis under
20 which we do a calculation against the
21 average and submit those orders that
22 doesn't exceed the established threshold
23 at the time.
24 Q. "Because the volume of

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1 references that this criteria has
2 generated in the past, DEA requested that
3 we refrain from overloading the office
4 with indiscriminate faxes."
5 Do you see that?
6 A. Yes.
7 Q. Was that feedback that you
8 had from the DEA?
9 A. Yes, based on the
10 conversation I had with Kevin Boggess.
11 Q. And do you understand that
12 to relate to the DU-45s you were
13 submitting?
14 A. Yes.
15 Q. And then you say, "We have
16 alternative methods and screening
17 criteria, and we're determining these
18 methods to determine which method may
19 identify truly suspicious orders."
20 Do you see that?
21 A. Yes.
22 Q. Do you -- so am I
23 understanding this correct that you're
24 getting feedback they don't want all

<p style="text-align: right;">Page 514</p> <p>1 these DU-45s?</p> <p>2 A. I think his feedback</p> <p>3 basically said that they don't do</p> <p>4 anything with it.</p> <p>5 Q. Okay.</p> <p>6 A. It's too much. They</p> <p>7 couldn't tell the forest from the trees.</p> <p>8 Q. And you're looking for an</p> <p>9 alternative way to report?</p> <p>10 MR. BOGLE: Object to form.</p> <p>11 BY MR. SCHMIDT:</p> <p>12 Q. Were you looking for an</p> <p>13 alternative way to report? Is that what</p> <p>14 you're expressing in this memo?</p> <p>15 A. Yes.</p> <p>16 Q. Did you get any feedback</p> <p>17 from Mr. Bogus as to what would be the</p> <p>18 right alternative way to report?</p> <p>19 A. No.</p> <p>20 Q. Was that unusual?</p> <p>21 A. No.</p> <p>22 Q. Was it often the case or</p> <p>23 rare that you might reach out to the DEA</p> <p>24 for information on reporting or on</p>	<p style="text-align: right;">Page 516</p> <p>1 rather than just summing up the orders</p> <p>2 for specific SKUs or items, it would</p> <p>3 aggregate them into the base code.</p> <p>4 Q. What followed the LDMP, what</p> <p>5 program?</p> <p>6 A. Later on we had the CSMP.</p> <p>7 Q. Do you remember when that</p> <p>8 was, roughly?</p> <p>9 A. The implementation of the</p> <p>10 CSMP was in spring of 2008.</p> <p>11 Q. Okay. Did you -- did</p> <p>12 this -- I think you covered this in your</p> <p>13 discussion with the plaintiff lawyers.</p> <p>14 But did you -- did the CSMP specify how</p> <p>15 you would count something as suspicious</p> <p>16 and when you would report it as</p> <p>17 suspicious?</p> <p>18 A. We created a Level 1, Level</p> <p>19 2, Level 3 structure.</p> <p>20 Q. Did that guide suspicious</p> <p>21 order reporting?</p> <p>22 A. Yes.</p> <p>23 Q. Marked as Exhibit 1, did you</p> <p>24 share that information and your</p>
<p style="text-align: right;">Page 515</p> <p>1 pharmacies or something else and not get</p> <p>2 information?</p> <p>3 MR. BOGLE: Object to form.</p> <p>4 BY MR. SCHMIDT:</p> <p>5 Q. How common was that?</p> <p>6 A. That was the rule rather</p> <p>7 than the exception.</p> <p>8 Q. That you might ask for</p> <p>9 information and --</p> <p>10 A. And not get anything.</p> <p>11 MR. BOGLE: Object to form.</p> <p>12 THE WITNESS: Correct.</p> <p>13 BY MR. SCHMIDT:</p> <p>14 Q. When you talk in this memo</p> <p>15 about identifying an alternate way to</p> <p>16 identify truly suspicious orders, what</p> <p>17 was the policy of the program that your</p> <p>18 company actually settled on that</p> <p>19 specified how you were going to report</p> <p>20 suspicious orders around this time</p> <p>21 period?</p> <p>22 A. I think at this time we were</p> <p>23 in the process of developing the LDMP,</p> <p>24 actually, which did calculations, and</p>	<p style="text-align: right;">Page 517</p> <p>1 experience with DEA that this is how you</p> <p>2 would be reporting suspicious orders?</p> <p>3 A. Yes.</p> <p>4 Q. I've marked as Exhibit 51 --</p> <p>5 MR. SCHMIDT: Thank you.</p> <p>6 (Document marked for</p> <p>7 identification as Exhibit</p> <p>8 Mahoney-51.)</p> <p>9 BY MR. SCHMIDT:</p> <p>10 Q. -- a slide presentation --</p> <p>11 MR. SCHMIDT: You lost a</p> <p>12 couple pages.</p> <p>13 BY MR. SCHMIDT:</p> <p>14 Q. -- that says, "Controlled</p> <p>15 substance monitoring program, Delran</p> <p>16 facility overview, November 6, 2008."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And if you look at the third</p> <p>20 page, it refers to McKesson attendees.</p> <p>21 Do you see yourself at this meeting?</p> <p>22 A. Yes.</p> <p>23 Q. Do you recall being at this</p> <p>24 meeting?</p>

<p style="text-align: right;">Page 518</p> <p>1 A. Yes.</p> <p>2 Q. Was -- were DEA officials at</p> <p>3 this meeting?</p> <p>4 A. Yes.</p> <p>5 Q. And if you flip ahead to</p> <p>6 Page 16 of this document. Tell me when</p> <p>7 you're there.</p> <p>8 A. 16 in the slide?</p> <p>9 Q. 4832 at the bottom?</p> <p>10 A. Yes.</p> <p>11 Q. Does this set forth that</p> <p>12 Level 1, Level 2, Level 3 review process?</p> <p>13 A. Yes.</p> <p>14 Q. And under Level 3 review, is</p> <p>15 that where it specifies that if something</p> <p>16 reaches that level, it will be reported</p> <p>17 to DEA as suspicious?</p> <p>18 A. Yes.</p> <p>19 Q. Did there -- did there come</p> <p>20 a time after this where you learned that</p> <p>21 DEA wanted different suspicious order</p> <p>22 reporting than set forth in this policy</p> <p>23 that you presented to the DEA?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 520</p> <p>1 Covington and Burling?</p> <p>2 Q. Yes.</p> <p>3 A. Okay. Yes.</p> <p>4 Q. Do you remember those</p> <p>5 letters where there are allegations made</p> <p>6 on behalf of DEA or by the DEA against</p> <p>7 the company --</p> <p>8 A. Yes.</p> <p>9 Q. -- leading up to the 2017</p> <p>10 settlement?</p> <p>11 A. Yes.</p> <p>12 Q. Did you agree with all the</p> <p>13 allegations made in those letters?</p> <p>14 MR. BOGLE: Object to form.</p> <p>15 BY MR. SCHMIDT:</p> <p>16 Q. Against the company on the</p> <p>17 points where you had firsthand knowledge?</p> <p>18 A. Yeah, I wasn't aware of a</p> <p>19 lot of it, but I didn't necessarily agree</p> <p>20 with what I did know.</p> <p>21 Q. Did you adjust your policies</p> <p>22 in 2013 when you heard those comments</p> <p>23 from the DEA at that point in time, to</p> <p>24 try to address those comments?</p>
<p style="text-align: right;">Page 519</p> <p>1 Q. Roughly speaking, when was</p> <p>2 that?</p> <p>3 A. 2013.</p> <p>4 Q. Okay. And did you believe</p> <p>5 up until that time that you were</p> <p>6 reporting as DEA wanted, consistent with</p> <p>7 their roles?</p> <p>8 MR. BOGLE: Object to form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. SCHMIDT:</p> <p>11 Q. Was that the start of that</p> <p>12 2013 discussion with -- that you're</p> <p>13 referencing, was that the start of the</p> <p>14 process that led to the 2017 settlement</p> <p>15 that you were shown?</p> <p>16 A. I believe so, yeah.</p> <p>17 Q. And just to be clear on that</p> <p>18 point, you were shown a couple of letters</p> <p>19 related -- in the lead-up to that</p> <p>20 settlement. I think there were Exhibits</p> <p>21 40 and 41 where different allegations</p> <p>22 were made against the company.</p> <p>23 Do you remember that?</p> <p>24 A. That was from the DEA to</p>	<p style="text-align: right;">Page 521</p> <p>1 A. Yes. I believe we started</p> <p>2 sending all of our omit data as</p> <p>3 suspicious order reports.</p> <p>4 Q. Let's talk about Lakeland a</p> <p>5 little bit. You were asked some</p> <p>6 questions about Lakeland leading up to</p> <p>7 the agreement in 2008 regarding Lakeland.</p> <p>8 First off, prior to 2006,</p> <p>9 was Lakeland responsible for supplying</p> <p>10 opioids to Summit County, Ohio or</p> <p>11 Cuyahoga County, Ohio?</p> <p>12 A. No.</p> <p>13 Q. There was discussion in the</p> <p>14 documents you were shown by the</p> <p>15 plaintiffs' lawyers about Lakeland about</p> <p>16 internet pharmacies. Do you remember</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. Did you know that the DEA</p> <p>20 had concerns about internet pharmacies?</p> <p>21 MR. BOGLE: Object to form.</p> <p>22 BY MR. SCHMIDT:</p> <p>23 Q. Before those discussions</p> <p>24 about Lakeland started in late 2005 and</p>

<p style="text-align: right;">Page 522</p> <p>1 early 2006?</p> <p>2 A. Yes.</p> <p>3 Q. Did you believe that you</p> <p>4 were addressing those concerns?</p> <p>5 MR. BOGLE: Object to form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. SCHMIDT:</p> <p>8 Q. Tell me about that. Tell me</p> <p>9 how you thought you were addressing</p> <p>10 concerns about internet pharmacies before</p> <p>11 2005 and 2006.</p> <p>12 A. Based on the descriptions</p> <p>13 that we had of what kind of a mode an</p> <p>14 internet pharmacy took, and these were</p> <p>15 both DEA communications as well as</p> <p>16 internal presentations and PowerPoints,</p> <p>17 that kind of thing, kind of viewed it as</p> <p>18 something that wasn't really a standard</p> <p>19 pharmacy, that it was more like a</p> <p>20 warehouse or something like that where</p> <p>21 that kind of activity would take place.</p> <p>22 Q. Were you conducting</p> <p>23 diligence during that time period on the</p> <p>24 pharmacies that you were dealing with?</p>	<p style="text-align: right;">Page 524</p> <p>1 your sales to the ARCOS reporting system?</p> <p>2 A. Yes.</p> <p>3 Q. And would you -- were there</p> <p>4 occasions during that time when you would</p> <p>5 cooperate on ad hoc basis with DEA as</p> <p>6 they were investigating issues?</p> <p>7 A. Yes.</p> <p>8 Q. Let's look at some of the</p> <p>9 documents related to Lakeland. Could you</p> <p>10 put Exhibit 8 in front of you, please.</p> <p>11 That's the letter from January 2006 that</p> <p>12 you were asked some questions about,</p> <p>13 1789.</p> <p>14 A. Yes.</p> <p>15 Q. Do you remember being asked</p> <p>16 questions about this?</p> <p>17 A. Yes.</p> <p>18 Q. Who -- was this written by</p> <p>19 McKesson or DEA?</p> <p>20 A. I believe this is Mapes from</p> <p>21 DEA.</p> <p>22 Q. Can you vouch for all of the</p> <p>23 information contained in here? For</p> <p>24 example, there are numbers and</p>
<p style="text-align: right;">Page 523</p> <p>1 A. What time frame are we</p> <p>2 talking about?</p> <p>3 Q. Prior to 2005, 2006?</p> <p>4 A. We were -- we were</p> <p>5 collecting information on licensure,</p> <p>6 registration, financials, that kind of</p> <p>7 thing.</p> <p>8 Q. And did you believe that was</p> <p>9 meaningful information?</p> <p>10 A. Yes.</p> <p>11 Q. Were you tracking sales to</p> <p>12 individual pharmacies in that time</p> <p>13 period?</p> <p>14 A. All sales?</p> <p>15 Q. Yes.</p> <p>16 A. Yes.</p> <p>17 Q. Were you reporting</p> <p>18 suspicious orders through those DU-45</p> <p>19 reports that you were talking about to</p> <p>20 DEA?</p> <p>21 MR. BOGLE: Object to form.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. SCHMIDT:</p> <p>24 Q. Were you reporting all of</p>	<p style="text-align: right;">Page 525</p> <p>1 allegations and things like that. Are</p> <p>2 you in a position to vouch for all of</p> <p>3 that?</p> <p>4 A. No.</p> <p>5 Q. If I look at Page 2 of this</p> <p>6 letter, the third paragraph from the</p> <p>7 bottom states, "Through the course of the</p> <p>8 above discussion, McKesson Corp. by their</p> <p>9 own admission was unable to provide a</p> <p>10 plausible explanation."</p> <p>11 Do you see that?</p> <p>12 A. I see that, yeah.</p> <p>13 Q. Do you recall that being</p> <p>14 said by anyone at McKesson, "We can't</p> <p>15 provide a plausible explanation"?</p> <p>16 MR. BOGLE: Object to form.</p> <p>17 THE WITNESS: I don't recall</p> <p>18 it.</p> <p>19 BY MR. SCHMIDT:</p> <p>20 Q. You were asked about a call</p> <p>21 that's referenced in some of these</p> <p>22 communications about an individual</p> <p>23 pharmacy, and there was a suggestion, and</p> <p>24 it's documented, it's reflected in this</p>

<p style="text-align: right;">Page 526</p> <p>1 letter that the call related to United 2 Prescription Services. Do you remember 3 being asked that question? 4 A. I see that, yeah. 5 Q. I think you said that you 6 didn't remember receiving a call about 7 United Prescription Services; is that 8 correct? 9 A. I don't recall receiving a 10 call from United Prescription Services. 11 Q. Do you recall getting 12 feedback from the DEA during this time 13 period about any specific pharmacy? 14 MR. BOGLE: Object to form. 15 THE WITNESS: I believe -- 16 BY MR. SCHMIDT: 17 Q. Or about another specific 18 pharmacy? 19 A. Yeah there was Lexus -- 20 Lexus Drugs that one of the DIs had 21 called about. 22 Q. And what did you do based on 23 that? 24 A. She suggested that they were</p>	<p style="text-align: right;">Page 528</p> <p>1 regarding Lexus Drugs. 2 Do you see that? 3 A. I do. 4 Q. And is that consistent with 5 your -- with your recollection? 6 MR. BOGLE: Object to form. 7 THE WITNESS: Yes, I recall 8 the Lexus discussion. 9 BY MR. SCHMIDT: 10 Q. Let's look at Exhibit 10, 11 please. You were asked questions about 12 some of these order to show cause 13 documents. I want to ask you to look at 14 Page 6350. Starting on this page and 15 continuing for a number of pages, it has 16 proposed testimony of William Mahoney. 17 Do you see that? 18 A. Yes. 19 Q. And have you had a chance to 20 look at this again more recently, just 21 the proposed testimony portion, beginning 22 at the top of 6350? 23 A. I see it. And -- 24 Q. But you had a chance to look</p>
<p style="text-align: right;">Page 527</p> <p>1 engaged in some kind of suspicious 2 activity. And we just declined to 3 onboard them. 4 Q. Let's look at Exhibit 9, 5 which is the response letter back to 6 Exhibit 8 from McKesson to DEA. 7 Do you see that? 8 A. Yes. 9 MR. BOGLE: What's the -- 10 what's the number? 11 MR. SCHMIDT: 1963. 12 BY MR. SCHMIDT: 13 Q. Do you see that, 14 Mr. Mahoney? 15 A. Yes. 16 Q. If we look at Page 4, the 17 first full paragraph, it states that 18 McKesson is required to keep government 19 contact sheets. 20 Do you see that? 21 A. Yes. 22 Q. And it says that they don't 23 reflect a call regarding prescription 24 services but they do reflect a call</p>	<p style="text-align: right;">Page 529</p> <p>1 at this more recently? 2 A. Yes, I have. 3 Q. Do you stand behind this 4 proposed testimony today? 5 MR. BOGLE: Object to form. 6 THE WITNESS: Yes. 7 BY MR. SCHMIDT: 8 Q. Just for example, if we look 9 at Page 6353? 10 A. Yes. 11 Q. Do you see where it talks 12 about how you verified customers at this 13 point in time? 14 A. Yes. 15 Q. Further down, do you see 16 where it talks about your recordkeeping 17 and reporting systems? 18 A. Yes. 19 Q. And then on 6358 and 6359 20 there's a discussion about that Lexus 21 pharmacy call. Do you see that? 22 A. Yes. 23 Q. If you go to 6359. It 24 states you will also testify that Ms.</p>

<p style="text-align: right;">Page 530</p> <p>1 Butcher -- she is from the DEA, right?</p> <p>2 A. Yeah. She -- she had called</p> <p>3 me on Lexus.</p> <p>4 Q. Right. "He" -- "he will</p> <p>5 also testify that Ms. Butcher later</p> <p>6 notified the Lakeland DC that Lexus had</p> <p>7 agreed to stop the offensive behavior and</p> <p>8 the DEA had no objections to Lakeland DC</p> <p>9 doing business with them."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Is that consistent with your</p> <p>13 recollection?</p> <p>14 MR. BOGLE: Objection to</p> <p>15 form.</p> <p>16 THE WITNESS: I believe so,</p> <p>17 yeah.</p> <p>18 BY MR. SCHMIDT:</p> <p>19 Q. McKesson declined to open</p> <p>20 the account. Is that what happened?</p> <p>21 A. Yes.</p> <p>22 Q. On 6361, a few pages ahead,</p> <p>23 you were asked about this instance where</p> <p>24 you lowered the pharmacies and then you</p>	<p style="text-align: right;">Page 532</p> <p>1 6444 to 6455.</p> <p>2 A. 6444. Yes.</p> <p>3 Q. Do you see that this has</p> <p>4 proposed testimony from William Mahoney?</p> <p>5 A. Yes.</p> <p>6 Q. But this time it's being</p> <p>7 submitted by the government. Do you see</p> <p>8 that?</p> <p>9 A. Yes.</p> <p>10 Q. And you were asked some</p> <p>11 questions about this testimony. Do you</p> <p>12 see that -- do you remember that?</p> <p>13 A. Yes.</p> <p>14 Q. Did you sign off on the</p> <p>15 specific substance of this before the</p> <p>16 government submitted it, did they give</p> <p>17 this to you so you could read it and say</p> <p>18 I agree with all this?</p> <p>19 A. I don't believe -- I don't</p> <p>20 think so.</p> <p>21 Q. Let me ask you about a</p> <p>22 couple other exhibits. Exhibit 11,</p> <p>23 please.</p> <p>24 Do you have that in front of</p>
<p style="text-align: right;">Page 531</p> <p>1 put them back up to 2,000 dosage units.</p> <p>2 Do you see that language?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember being asked</p> <p>5 questions by the plaintiff lawyer about</p> <p>6 that?</p> <p>7 A. Yes.</p> <p>8 Q. I want to read you the next</p> <p>9 sentence that he didn't read you when he</p> <p>10 asked you these questions. It states,</p> <p>11 "This amount was still significantly</p> <p>12 lower than the prior purchases by these</p> <p>13 pharmacies."</p> <p>14 Did I read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. Was that accurate?</p> <p>17 A. Yes.</p> <p>18 Q. Were you being transparent</p> <p>19 with the government in telling them this</p> <p>20 information?</p> <p>21 MR. BOGLE: Object to form.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. SCHMIDT:</p> <p>24 Q. Look with me if you would at</p>	<p style="text-align: right;">Page 533</p> <p>1 you?</p> <p>2 MR. BOGLE: What's the</p> <p>3 cross-reference?</p> <p>4 MR. SCHMIDT: 1947.</p> <p>5 BY MR. SCHMIDT:</p> <p>6 Q. The plaintiff lawyer</p> <p>7 represented that this was a government</p> <p>8 document. Do you have any way to vouch</p> <p>9 for the numbers in this document or the</p> <p>10 accuracy of them?</p> <p>11 A. No.</p> <p>12 Q. Take a specific example, if</p> <p>13 we look at the second page where it talks</p> <p>14 about the 299 other pharmacies. Do you</p> <p>15 see that?</p> <p>16 A. Yeah.</p> <p>17 Q. Do you know how DEA chose</p> <p>18 those 299 other pharmacies?</p> <p>19 A. No idea.</p> <p>20 Q. Do you know whether -- where</p> <p>21 they were located?</p> <p>22 A. No.</p> <p>23 Q. Do you know if they were</p> <p>24 average, above average, below average?</p>

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<p>1 MR. BOGLE: Object to form. 2 THE WITNESS: No. 3 BY MR. SCHMIDT: 4 Q. Do you know? 5 A. No idea, no. 6 Q. Can you -- if you look at 7 the numbers that are reported for those 8 299 other pharmacies, is it -- is it 9 possible to do the math and figure out 10 what their monthly levels are, these 11 pharmacies that the government is citing 12 as a comparison? 13 A. Sure. 14 Q. How do you do that? 15 A. So October through the end 16 of January is five months. Five times 17 299 would be the denominator and then 18 divide the 10.7, 6, 7 million by the 1495 19 I guess. 20 Q. And -- okay. Let me turn to 21 Exhibits 12, 13 and 14, please. And 15. 22 These are other documents that were shown 23 to you. 24 Do you remember being shown</p>	<p>1 vouch for the accuracy of what they 2 report? 3 A. I don't. 4 Q. Let's look -- let's go back 5 to when DEA raised these concerns with 6 you about these specific pharmacies in 7 Florida. How did you respond to them, 8 were there steps you took in response? 9 MR. BOGLE: Object to form. 10 BY MR. SCHMIDT: 11 Q. Strike that. 12 Were there steps you took in 13 response to the DEA's concerns that were 14 raised to you? 15 MR. BOGLE: Same objection. 16 BY MR. SCHMIDT: 17 Q. Regarding Lakeland in 2005 18 and 2006 in terms of these pharmacies? 19 A. We were concerned about what 20 they were saying about internet pharmacy, 21 and we asked them to fill out -- fill out 22 questionnaires that were based on some of 23 the questions that DEA said were 24 pertinent to this kind of evaluation.</p>
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<p>1 these documents? I think they were also 2 represented as being government 3 documents? 4 A. Yes. 5 Q. Do you have any way to vouch 6 for the accuracy of the data in these 7 documents or the rankings that they have? 8 A. No. 9 Q. And if we just look at one 10 of them, the first one, does that appear 11 to you to include data on all 12 distributors, not just McKesson, in the 13 number of scripts on the first one, 14 Exhibit 12? 15 A. All? I think this is not 16 just McKesson sales. It's all their 17 purchases, yeah. 18 Q. Do you have Exhibit 16 and 19 17 in front of you? 20 A. Yes. 21 Q. These are, I believe, web 22 page articles that the plaintiff lawyer 23 said he pulled down and asked you 24 questions about. Do you have any way to</p>	<p>1 Q. Was that an example of what 2 we were talking about before, developing 3 your processes over time? 4 A. Yes. 5 MR. BOGLE: Object to form. 6 BY MR. SCHMIDT: 7 Q. Do you have in front of you 8 Exhibit 19, the agreement in 2008? 9 A. Yes. 10 Q. Look with me if you would at 11 Page 2 of the document. It's 889. Do 12 you see where it says, "No admission or 13 concession"? 14 A. Yes. 15 Q. Tell me if I read this 16 correctly: "This agreement is neither an 17 admission by McKesson of liability or of 18 any allegations made by DEA in the orders 19 and investigations nor a concession by 20 DEA that its allegations in the orders of 21 investigations are not well founded." 22 Did I read that correctly? 23 A. Yes. 24 Q. If you look at Page 0714 of</p>

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1 this document. Down below. 14 at the
2 top?
3 A. That's easier.
4 Q. I'm going to read
5 Paragraph 9 and ask you if I've read this
6 correctly. "By entering into this
7 agreement McKesson does not admit to the
8 violations alleged as a result of any DEA
9 investigation or to any violation of law,
10 liability, fault, misconduct or
11 wrongdoing. McKesson explicitly denies
12 any allegations of violations of the CSA
13 or DEA regulations and represents that
14 the company has defenses to the
15 violations alleged by the government."
16 Did I read that correctly?
17 A. Yes.
18 Q. Did you understand that to
19 be a term of this 2008 agreement
20 regarding Lakeland?
21 A. Yes.
22 MR. BOGLE: Object to form.
23 BY MR. SCHMIDT:
24 Q. Just a few more.

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1 Do you have exhibit -- do
2 you have Exhibit 3 in front of you? 851.
3 A. Yes.
4 Q. Turn with me if you would to
5 Page 18. Do you remember being called --
6 asked questions about this slide deck?
7 A. 18, 19?
8 Q. Yeah. Do you remember being
9 asked questions about this slide deck?
10 A. Yes.
11 Q. If you look at Page 18,
12 there's data on a slide titled Florida
13 Pill Mills. Do you see that?
14 A. Yes.
15 Q. Do you know if that data
16 pertains to only McKesson-supplied
17 pharmacies, no McKesson-supplied
18 pharmacies, a combination?
19 MR. BOGLE: Object to form.
20 THE WITNESS: Do I know? I
21 don't.
22 BY MR. SCHMIDT:
23 Q. Okay. You don't know if
24 it's McKesson pharmacies or not; is that

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1 correct?
2 MR. BOGLE: Object to form.
3 THE WITNESS: I assume it's
4 all of Florida.
5 BY MR. SCHMIDT:
6 Q. And would the same be
7 true -- do you know if there's any
8 linkage, if we look at 19, between the
9 deaths referenced on 19 and any
10 McKesson-supplied pharmacies?
11 A. No, I don't.
12 Q. Look with me if you would
13 at -- at Slide 37. You were asked about
14 this slide. Do you remember that?
15 A. Yes.
16 Q. And one of the bullets is,
17 "You control the supply to downstream
18 customers."
19 Do you see that?
20 A. Yes.
21 Q. The second bullet is,
22 "Ensure timely distribution to prevent an
23 uninterrupted supply."
24 Do you see that?

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1 A. Yes.
2 Q. What do you understand that
3 to mean?
4 A. I think what it's saying is
5 that we -- part of our function in the
6 whole process is to make sure that the
7 healthcare supply chain works and that
8 the drugs are available where needed,
9 when they are needed.
10 Q. Is that important?
11 A. Yeah.
12 MR. BOGLE: Object to form.
13 BY MR. SCHMIDT:
14 Q. In your view?
15 A. Yes.
16 Q. Does that balance against --
17 is that something that factors into a
18 decision about whether and when you can
19 cut a pharmacy off, this concern about
20 ensuring the timely distribution that
21 prevented uninterrupted supply?
22 MR. BOGLE: Object to form.
23 THE WITNESS: Does it affect
24 whether we cut someone off or not?

<p style="text-align: right;">Page 542</p> <p>1 BY MR. SCHMIDT:</p> <p>2 Q. Does it enter into an</p> <p>3 evaluation, is it something you need to</p> <p>4 balance when you are a making a decision</p> <p>5 about whether or not to supply a</p> <p>6 pharmacy?</p> <p>7 A. If we determine that a</p> <p>8 pharmacy is not performing its</p> <p>9 corresponding responsibility or we see</p> <p>10 other information that leads us to stop</p> <p>11 selling them controls, it's regardless</p> <p>12 of -- of -- there are other alternatives.</p> <p>13 Q. Fair point. Let's look at</p> <p>14 Exhibit 6, please. Do you remember being</p> <p>15 asked questions about this slide deck?</p> <p>16 MR. BOGLE: Sorry, what was</p> <p>17 the cross-reference?</p> <p>18 MR. SCHMIDT: 1355.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. SCHMIDT:</p> <p>21 Q. Look with me, if you would,</p> <p>22 at the map on 15.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 544</p> <p>1 A. So a pharmacist or doctor</p> <p>2 who can access a PMP can see the history,</p> <p>3 the controls history of a patient, and</p> <p>4 say, "You just got filled, you know, last</p> <p>5 week. I'm not going to fill your order."</p> <p>6 And those were implemented at different</p> <p>7 times, Florida before Georgia. And I'm</p> <p>8 not sure of the timing of the other</p> <p>9 pharmacies -- or the other states.</p> <p>10 But I think that was a great</p> <p>11 tool for pharmacies that was implemented,</p> <p>12 you know, after 2008 which helped stamp</p> <p>13 out a lot of the diversion that was going</p> <p>14 on.</p> <p>15 Q. You've been shown various</p> <p>16 slide decks. This is Exhibit 6. You</p> <p>17 were shown Exhibits 3, 4 and 5 from</p> <p>18 McKesson's files. Are those examples of</p> <p>19 McKesson trying to understand the opioid</p> <p>20 problem and address it?</p> <p>21 MR. BOGLE: Object to form.</p> <p>22 THE WITNESS: Three, four</p> <p>23 and five?</p> <p>24 BY MR. SCHMIDT:</p>
<p style="text-align: right;">Page 543</p> <p>1 Q. The arrow that starts in</p> <p>2 Florida, goes to Georgia, goes to</p> <p>3 Tennessee, then Kentucky, then Ohio, then</p> <p>4 Missouri.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. What's your understanding of</p> <p>8 what that map represents and the arrows</p> <p>9 represent?</p> <p>10 A. I -- I think that what this</p> <p>11 is showing is where -- where they're</p> <p>12 saying the diversion problem was taking</p> <p>13 place.</p> <p>14 Q. Okay. Is it specific drugs</p> <p>15 going from one of those locations to the</p> <p>16 other, to your understanding?</p> <p>17 MR. BOGLE: Object to form.</p> <p>18 THE WITNESS: No. No. My</p> <p>19 belief is that this is a reaction</p> <p>20 in part to states implementing</p> <p>21 prescription monitoring.</p> <p>22 BY MR. SCHMIDT:</p> <p>23 Q. Tell me what you mean by</p> <p>24 that.</p>	<p style="text-align: right;">Page 545</p> <p>1 Q. Yeah. They're right there</p> <p>2 if you want to look at them quickly.</p> <p>3 A. Okay.</p> <p>4 Q. Are those all slide decks</p> <p>5 that are examples of McKesson trying to</p> <p>6 understand the opioid problems and look</p> <p>7 for ways to address it?</p> <p>8 MR. BOGLE: Object to form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. SCHMIDT:</p> <p>11 Q. Look at Exhibit 28, if you</p> <p>12 would. This is the audit document. Do</p> <p>13 you recall being asked questions about</p> <p>14 this audit document?</p> <p>15 A. Yes, yes.</p> <p>16 Q. Do you have an understanding</p> <p>17 as to whether these kind of audits were</p> <p>18 periodically done?</p> <p>19 A. I'm not sure of the</p> <p>20 frequency, but audits are something that</p> <p>21 are done to -- I think they're really a</p> <p>22 tool of the board to ensure that we're</p> <p>23 doing what we need to to protect the</p> <p>24 company's interests.</p>

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1 Q. Okay. Let's look at Pages
 2 14 and 15, which is what you were asked
 3 about. I'll just ask you a couple quick
 4 questions on those. Do you remember
 5 being asked questions about the findings
 6 regarding specific facilities?
 7 A. Yes.
 8 Q. For example, on Page 15, you
 9 were asked about the findings of the
 10 Conroe facility where two T -- threshold
 11 change requests forms were not on file.
 12 Do you see that?
 13 A. Yes.
 14 Q. Does that mean that they
 15 were never completed?
 16 MR. BOGLE: Object to form.
 17 THE WITNESS: I don't think
 18 so, no.
 19 BY MR. SCHMIDT:
 20 Q. Why do you say that?
 21 A. It was a paper system. I'm
 22 not sure where the forms might have been.
 23 But they weren't available when the
 24 auditors were looking for them.

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1 Q. Is -- is the purpose of an
 2 audit like this to try to have
 3 100 percent compliance with every one of
 4 your policies?
 5 A. Yeah.
 6 Q. Is that a good thing?
 7 A. Yes.
 8 Q. And would you act on the
 9 results of these audits to try to get as
 10 close to 100 percent compliance as you
 11 could in all instances?
 12 A. Yes.
 13 Q. Exhibit 31 was the -- what I
 14 think was described as a software glitch
 15 regarding --
 16 A. Yes.
 17 Q. -- target and thresholds.
 18 Do you remember being asked questions
 19 about that?
 20 A. Yes.
 21 Q. Do you know how this was
 22 resolved?
 23 A. I don't actually.
 24 Q. Do you know if, at the end

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1 of the day when the problem was fixed, if
 2 averaged out over the months any one of
 3 these pharmacies actually exceeded their
 4 threshold on an average basis?
 5 MR. BOGLE: Object to form.
 6 Calls for speculation. Lacks
 7 foundation.
 8 THE WITNESS: I don't know.
 9 BY MR. SCHMIDT:
 10 Q. Last one, Exhibit 38. You
 11 were asked about HDMA guidelines. Do you
 12 remember being asked about that?
 13 A. Mm-hmm.
 14 Q. Were those, like, binding on
 15 companies?
 16 MR. BOGLE: Object to form.
 17 THE WITNESS: No.
 18 BY MR. SCHMIDT:
 19 Q. Did you view them as --
 20 every single one of them as realistic and
 21 valuable to use them in all
 22 circumstances?
 23 MR. BOGLE: Object to form.
 24 THE WITNESS: No.

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1 BY MR. SCHMIDT:
 2 Q. Okay.
 3 A. Primarily because I think
 4 this was a committee, and it was a
 5 brainstorming-type thing. They were
 6 trying to determine what various people
 7 do. And this is different tools that
 8 different people were using.
 9 Q. Okay. And you gave one
 10 example when you were answering questions
 11 about a notarization requirement. Is
 12 that something you had looked at and made
 13 a judgment about whether it actually had
 14 value?
 15 MR. BOGLE: Object to form.
 16 THE WITNESS: Well, we did
 17 in fact initially require a signed
 18 questionnaire and document by the
 19 customer.
 20 And eventually, it was
 21 determined that they didn't hold
 22 any effect. And we never did
 23 actually do the notarization.
 24 BY MR. SCHMIDT:

<p style="text-align: right;">Page 550</p> <p>1 Q. Were there ever guidelines 2 given to you by DEA that you understood 3 but chose not to follow? 4 MR. BOGLE: Object to form. 5 BY MR. SCHMIDT: 6 Q. With regard to suspicious 7 orders? 8 MR. BOGLE: Object to form. 9 THE WITNESS: I don't think 10 so. I don't think so. 11 MR. SCHMIDT: That's all I 12 have, Mr. Mahoney. Thank you. 13 MR. BOGLE: I've got some 14 follow-up, and you guys have a 15 chance to ask questions if you 16 want. I just want to mark the 17 time. Let's go off the record. 18 THE VIDEOGRAPHER: Sure. 19 Okay. The time is 7:05 p.m. 20 Going off the record. 21 (Short break.) 22 THE VIDEOGRAPHER: We are 23 back on the record. The time is 24 7:09 p.m.</p>	<p style="text-align: right;">Page 552</p> <p>1 MR. SCHMIDT: Objection. 2 BY MR. BOGLE: 3 Q. It wouldn't have been your 4 testimony then that McKesson only 5 historically has provided opioids 6 specifically to customers that have valid 7 prescriptions from doctors, right? 8 MR. SCHMIDT: Objection. 9 Foundation. 10 THE WITNESS: I think I've 11 talked today about how hard it is 12 to -- through even the tools that 13 we have today, to know what is 14 going on in the pharmacy for every 15 specific transaction. 16 BY MR. BOGLE: 17 Q. Okay. I just want to make 18 sure that my question is clear. It would 19 not have been your testimony then when 20 you said that McKesson only supplies 21 drugs in response to a prescription, that 22 historically McKesson has only supplied 23 opioids in response to valid 24 prescriptions from medical doctors?</p>
<p style="text-align: right;">Page 551</p> <p>1 - - - 2 EXAMINATION 3 - - - 4 BY MR. BOGLE: 5 Q. Mr. Mahoney, I have a few 6 follow-up questions for you. I know you 7 probably want to get out of here. So you 8 were asked some questions about when 9 McKesson supplies drugs to pharmacies. I 10 think you provided testimony along the 11 lines of that McKesson only distributes 12 when there's a prescription from a 13 doctor, right? 14 A. I think what I was saying is 15 that we -- we don't -- we don't push the 16 drugs. We respond to orders from 17 pharmacists who are filling scripts from 18 doctors. 19 Q. Okay. It wouldn't have been 20 your testimony then that McKesson 21 historically has only filled orders that 22 came from valid prescriptions from 23 doctors, right? 24 A. Say that again.</p>	<p style="text-align: right;">Page 553</p> <p>1 MR. SCHMIDT: Objection. 2 Form. 3 THE WITNESS: I'm not sure 4 if I testified to that. 5 BY MR. BOGLE: 6 Q. No. That's what I'm asking 7 you. I'm asking you if we should 8 interpret your testimony to mean that 9 McKesson historically has only provided 10 opioids in response to valid medical 11 prescriptions from doctors. That's my 12 question. 13 MR. SCHMIDT: Objection. 14 Form. 15 THE WITNESS: We do our best 16 to ensure that we're selling to 17 pharmacies that are exercising 18 their corresponding 19 responsibility. And part of that 20 is to ensure that they are for a 21 legitimate medical purpose. I 22 can't -- I can't say absolutely 23 that there has never been a 24 diversion based on a doctor</p>

<p style="text-align: right;">Page 554</p> <p>1 writing an invalid prescription. 2 BY MR. BOGLE: 3 Q. Sir, we know because we 4 talked about this for quite a bit this 5 morning, that McKesson-Lakeland 6 specifically, while you were the 7 distribution center manager, provided 8 more than 2 million prescriptions to 9 seven internet pharmacies over a 10 three-month period of time? 11 A. 2 million doses. 12 Q. Right. 13 A. Okay. Yeah. 14 Q. Yeah. I'm sorry, 2 million 15 doses, you're right, of hydrocodone. You 16 recall that discussion, right? 17 A. Yes. 18 Q. Okay. And ultimately it was 19 the belief of the DEA that those were not 20 valid prescriptions, right? 21 MR. SCHMIDT: Objection. 22 Characterization. 23 THE WITNESS: That was their 24 allegation, yes.</p>	<p style="text-align: right;">Page 556</p> <p>1 Q. And I'm not going to rehash 2 all the things we talked about before on 3 this. But just to -- just to refresh 4 you, the title of the slide is Purchases 5 of Hydrocodone By Known Or Suspected 6 Rogue Internet Pharmacies, 2006. 7 And this list ranked 1 to 8 34, we read off eight different 9 pharmacies on here that were either the 10 subject of the Lakeland show cause 11 proceedings in 2006 or were discussed in 12 a later letter from the DEA where they 13 felt diversion had occurred, right? 14 A. Yes. 15 MR. SCHMIDT: Objection to 16 the characterization. 17 BY MR. BOGLE: 18 Q. You recall that discussion, 19 don't you? 20 A. Yes, I recall that 21 discussion. 22 Q. And this is Mr. Boggs' 23 conclusion, who is now the senior 24 director of regulatory affairs at your</p>
<p style="text-align: right;">Page 555</p> <p>1 BY MR. BOGLE: 2 Q. And Mr. Boggs, even in his 3 presentation after he was hired on by 4 McKesson, reached the same conclusion, 5 right? 6 MR. SCHMIDT: Objection. 7 BY MR. BOGLE: 8 Q. You recall that discussion, 9 don't you? 10 MR. SCHMIDT: Objection. 11 Characterization. 12 THE WITNESS: I remember the 13 package but I'm not sure exactly 14 what you're talking about. 15 The big presentation at 16 Olive Branch? 17 BY MR. BOGLE: 18 Q. Yeah. I mean you recall -- 19 I'll take you back to it. It's 1.851, 20 Exhibit 3. 21 And if you go to 22 specifically Page .15. We've got it up 23 on the screen too. 24 A. Gotcha.</p>	<p style="text-align: right;">Page 557</p> <p>1 company where he concluded these were 2 known or suspected rogue internet 3 pharmacies, right? 4 A. I see that, yes. 5 Q. Okay. And while we are 6 talking about the Lakeland show cause 7 proceedings, we talked earlier that -- 8 that there was a substantial fine paid, 9 more than \$7 million related to that 10 activity with these internet pharmacies, 11 right? 12 A. Yes. 13 Q. Okay. And you were asked 14 some questions about the 2008 settlement 15 agreement and whether McKesson accepted 16 liability or responsibility for those 17 actions outlined in the agreement. Do 18 you recall that? 19 A. Yes. 20 Q. Okay. I believe you 21 testified that there was no admission of 22 guilt. Something to that effect, right? 23 A. That was just asked, right? 24 Q. Right, right. By your</p>

<p style="text-align: right;">Page 558</p> <p>1 counsel.</p> <p>2 A. Right.</p> <p>3 Q. And so, listen, in your</p> <p>4 experience at 18 years at McKesson, does</p> <p>5 the company routinely pay</p> <p>6 \$13-plus-million fines for things that</p> <p>7 they didn't do?</p> <p>8 MR. SCHMIDT: Objection.</p> <p>9 Foundation.</p> <p>10 THE WITNESS: I don't</p> <p>11 believe so.</p> <p>12 BY MR. BOGLE:</p> <p>13 Q. Okay. And you have an</p> <p>14 understanding because you were involved</p> <p>15 in the preparation for these order to</p> <p>16 show cause proceedings that there is a</p> <p>17 procedure by which McKesson can contest</p> <p>18 the allegations against -- made by the</p> <p>19 DEA, right?</p> <p>20 A. Yes.</p> <p>21 Q. They don't have to roll over</p> <p>22 and just say we quit, right?</p> <p>23 MR. SCHMIDT: Objection.</p> <p>24 Foundation. Calls for a legal</p>	<p style="text-align: right;">Page 560</p> <p>1 preparation for those proceedings that</p> <p>2 just like every other aspect of our legal</p> <p>3 system in this country, McKesson had an</p> <p>4 ability to defend and fight against those</p> <p>5 allegations, right?</p> <p>6 MR. SCHMIDT: Objection,</p> <p>7 calls --</p> <p>8 BY MR. BOGLE:</p> <p>9 Q. They didn't have to settle?</p> <p>10 MR. SCHMIDT: Objection.</p> <p>11 Calls for a legal conclusion.</p> <p>12 BY MR. BOGLE:</p> <p>13 Q. True?</p> <p>14 A. That's my understanding.</p> <p>15 Q. Okay. And you provided</p> <p>16 testimony along the lines the fact that</p> <p>17 McKesson only fills orders that are made</p> <p>18 to the company, correct? Responds to</p> <p>19 orders, right?</p> <p>20 A. Right.</p> <p>21 Q. Okay. But I think we can</p> <p>22 agree that McKesson has no obligation to</p> <p>23 fill every order that's presented to it,</p> <p>24 right?</p>
<p style="text-align: right;">Page 559</p> <p>1 conclusion.</p> <p>2 BY MR. BOGLE:</p> <p>3 Q. You understand that in</p> <p>4 preparation for the order to show cause</p> <p>5 hearing, when you were asked to provide</p> <p>6 proposed testimony, that that was being</p> <p>7 done in preparation for a legal fight,</p> <p>8 right?</p> <p>9 A. Apparently, yes.</p> <p>10 Q. Right. And McKesson quit on</p> <p>11 that fight, right?</p> <p>12 MR. SCHMIDT: Object to</p> <p>13 characterization.</p> <p>14 THE WITNESS: There was a</p> <p>15 settlement.</p> <p>16 BY MR. BOGLE:</p> <p>17 Q. Right. \$13-plus-million</p> <p>18 settlement, right?</p> <p>19 MR. SCHMIDT: Objection.</p> <p>20 Asked and answered.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. BOGLE:</p> <p>23 Q. And you do have a general</p> <p>24 understanding in your involvement in</p>	<p style="text-align: right;">Page 561</p> <p>1 A. I agree.</p> <p>2 Q. Okay. In fact, it has an</p> <p>3 obligation not to fill orders that it</p> <p>4 deems suspicious, right, when it comes to</p> <p>5 controlled substances?</p> <p>6 A. Yes.</p> <p>7 Q. You were asked -- I'm trying</p> <p>8 to find the exhibit number. 1.1962 which</p> <p>9 is Exhibit 25. If you can track that one</p> <p>10 down.</p> <p>11 You were asked specifically</p> <p>12 about the third page of the document</p> <p>13 which is the first page of the program</p> <p>14 guide for pharmacies?</p> <p>15 A. Yes.</p> <p>16 Q. And specifically asked about</p> <p>17 the second sentence. "Those regulations</p> <p>18 have not changed but the extent to which</p> <p>19 wholesalers are now required to monitor</p> <p>20 and enforce legitimate use of controlled</p> <p>21 substances has."</p> <p>22 Do you recall talking about</p> <p>23 that sentence and what you thought that</p> <p>24 meant, right?</p>

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1 A. Yes.
2 Q. Okay. Now, as an individual
3 who has worked in the regulatory
4 department for McKesson for -- for ten
5 years approximately, you understand that
6 since the regulations haven't changed
7 over time, it's impossible for the
8 company's duties to have changed either,
9 right?
10 MR. SCHMIDT: Objection.
11 Foundation.
12 THE WITNESS: I'm not -- I'm
13 not sure if Don Walker was talking
14 about that time frame. But he was
15 talking about an evolution in
16 terms of the things that we would
17 be looking for.
18 BY MR. BOGLE:
19 Q. Right. I understand that.
20 I think we are talking about two
21 different things though. You are talking
22 about an evolution at what McKesson
23 decides to look at. I'm talking about an
24 evolution of the regulation itself.

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1 But we can agree based on
2 this document, as it's stated, the
3 regulations have not changed one bit, had
4 they?
5 MR. SCHMIDT: Object to the
6 preamble; move to strike the
7 preamble. Object to form.
8 BY MR. BOGLE:
9 Q. That's what this document
10 says, 1.1962, Exhibit 25. The
11 regulations have not changed, right?
12 A. I read that.
13 Q. And the regulation
14 specifically referenced here is the
15 Controlled Substances Act, right?
16 A. Yes.
17 Q. Okay. And so, while
18 McKesson may have changed its processes
19 over time, if the regulations haven't
20 changed, sir, how could the duties
21 changed that you guys had?
22 MR. SCHMIDT: Objection to
23 form.
24 THE WITNESS: I think that

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1 there are all kinds of tools that
2 we have added to our tool kit
3 which enable us to get a better --
4 better perception of what is
5 inherently a grey process.
6 BY MR. BOGLE:
7 Q. Okay. But just because
8 McKesson presently decides to do more
9 than it had in the past, doesn't mean
10 that less was necessarily required of it
11 in the past, does it?
12 MR. SCHMIDT: Objection to
13 form.
14 THE WITNESS: I think that
15 there are new -- new ways at
16 trying to get to the information
17 that the DEA says will help us
18 identify whether something is a
19 legitimate script or not.
20 BY MR. BOGLE:
21 Q. Can you point our jury to
22 one passage of the Controlled Substances
23 Act which has changed which you believe
24 modified McKesson's duties at some point

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1 in time?
2 A. I can't.
3 Q. For example, under the
4 Controlled Substances Act there was
5 always a duty of McKesson to monitor for
6 suspicious orders of controlled
7 substances, right?
8 A. Yes.
9 Q. Always a duty to report
10 suspicious orders of controlled
11 substances, right?
12 A. Yes.
13 Q. And always a duty to prevent
14 diversion, right, of controlled
15 substances?
16 A. Establish effective controls
17 against diversion.
18 Q. Right. And the only way to
19 have effective controls against diversion
20 is to also block those orders and make
21 sure they don't get to customers who
22 might divert them, right?
23 MR. SCHMIDT: Objection.
24 Foundation.

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1 THE WITNESS: Say that
2 again.
3 BY MR. BOGLE:
4 Q. How do you make sure that a
5 customer doesn't divert a product if
6 you're giving it to them?
7 MR. SCHMIDT: Objection.
8 Vague.
9 THE WITNESS: I am not sure
10 I understand.
11 BY MR. BOGLE:
12 Q. Okay. So let me ask you
13 this way. In order to have effective
14 controls against diversion, you have to
15 block orders that you deem are
16 suspicious, right?
17 MR. SCHMIDT: Objection.
18 Form.
19 THE WITNESS: We now block
20 orders that get omitted, when they
21 hit a threshold that's
22 established.
23 BY MR. BOGLE:
24 Q. I'm talking about at all

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1 times, sir. I'm not talking about now.
2 The only way to have
3 effective controls against diversion, to
4 prevent it from occurring in the first
5 place, is not to give an order to a
6 customer that you think is suspicious,
7 right?
8 MR. SCHMIDT: Objection.
9 Form.
10 THE WITNESS: To a customer
11 who is suspicious?
12 BY MR. BOGLE:
13 Q. Whose order you think is
14 suspicious.
15 A. We're always working to try
16 to determine whether orders are
17 suspicious.
18 Q. Sir, that's not my question.
19 The only way to have
20 effective controls against diversion is
21 to ensure that suspicious orders don't
22 make their way to customers to begin
23 with, true?
24 MR. SCHMIDT: Objection.

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1 Form. Vague as to time.
2 BY MR. BOGLE:
3 Q. Any time.
4 MR. SCHMIDT: Objection to
5 form.
6 BY MR. BOGLE:
7 Q. Any time since you've been
8 with the company.
9 A. We've -- we've reported
10 suspicious orders via the DU-45 based on
11 the guidance that was given to us at the
12 time.
13 Q. Sir, that's just simply not
14 my question.
15 The only way to have
16 effective controls against diversion is
17 to ensure that suspicious orders don't
18 make their way to customers to begin
19 with, right?
20 MR. SCHMIDT: Objection.
21 Asked and answered three or four
22 times now.
23 THE WITNESS: That -- that
24 is the objective.

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1 BY MR. BOGLE:
2 Q. Right. And that is the
3 objective because that's the easiest way
4 to make sure something doesn't get
5 diverted, right, is don't give it to them
6 to begin with, true?
7 MR. SCHMIDT: Objection.
8 Form. Foundation.
9 BY MR. BOGLE:
10 Q. Can you think of an easier
11 way to prevent diversion than not to give
12 it to someone who you think is going to
13 divert it?
14 MR. SCHMIDT: Objection
15 form. Foundation.
16 THE WITNESS: Can I think of
17 an easier way to what?
18 BY MR. BOGLE:
19 Q. Prevent diversion than
20 preventing giving it to somebody you
21 think might divert it. What's an easier
22 way than that?
23 A. It sounds pretty easy if --
24 Q. I agree.

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1 MR. SCHMIDT: Let him finish
 2 his answer, please.
 3 THE WITNESS: It's hard to
 4 understand what a customer is
 5 going to do with what we do.
 6 BY MR. BOGLE:
 7 Q. Sir, that's not my question.
 8 My question is, can you tell our jury of
 9 a way that's easier to prevent diversion
 10 of a suspicious order than never giving
 11 that order to the customer to begin with?
 12 Can you think of an easier way?
 13 MR. SCHMIDT: Objection.
 14 Form. Asked and answered.
 15 THE WITNESS: Our objective
 16 is prevention.
 17 BY MR. BOGLE:
 18 Q. And how do you prevent? You
 19 don't give it to them, right?
 20 A. We try to assess our
 21 customers to ensure that they're doing
 22 their corresponding responsibility. And
 23 when we were comfortable with the
 24 customers that way, we can be confident

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1 that they are being used for legitimate
 2 purpose.
 3 Q. If you are not comfortable,
 4 those customers should never get the
 5 product, should they?
 6 MR. SCHMIDT: Objection.
 7 Foundation. Vague as to time.
 8 BY MR. BOGLE:
 9 Q. Anytime.
 10 MR. SCHMIDT: Objection.
 11 Foundation. Asked and answered.
 12 THE WITNESS: I think our
 13 tools have evolved over time
 14 because the environment has
 15 changed dramatically.
 16 BY MR. BOGLE:
 17 Q. Sir, I haven't asked you a
 18 question about tools. I'm asking you,
 19 and I've asked you three or four
 20 different ways, and you still haven't
 21 answered it. I would like for you to
 22 tell our jury, if you think there is one,
 23 of one easier way for ensuring that a
 24 customer doesn't divert a controlled

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1 substance when you think they've made a
 2 suspicious order than ensuring they don't
 3 get the substance to begin with?
 4 MR. SCHMIDT: I'll just
 5 object to the lecturing of the
 6 witness. It's not inappropriate.
 7 I'll move to strike the preamble.
 8 Asked and answered. Form.
 9 THE WITNESS: What we've
 10 been doing since 2013 is to
 11 report -- report orders that hit
 12 our threshold. And that is
 13 apparently sufficient in terms of
 14 reporting those suspicious orders.
 15 When they do hit the
 16 threshold, we block those orders.
 17 BY MR. BOGLE:
 18 Q. Since 2013?
 19 A. Yes.
 20 Q. Okay. So I'm not talking
 21 about since 2013. Let me back up then.
 22 So that you consider to be a good
 23 practice today, right?
 24 A. We've sent thousands of

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1 suspicious -- suspicious orders when they
 2 hit the threshold to the DEA.
 3 Q. Since 2013?
 4 A. Yes.
 5 Q. Okay. You think -- well,
 6 back up. Let me strike that.
 7 Those orders that, you said,
 8 since 2013 have also been blocked, right?
 9 A. Yes.
 10 Q. And you block them as a way
 11 to have effective controls against
 12 diversion, right?
 13 A. Yes.
 14 Q. And is it your testimony
 15 that prior to 2013, McKesson was
 16 incapable of blocking an order they
 17 deemed suspicious?
 18 A. We blocked orders and then
 19 did investigation on the order to try to
 20 determine whether it was suspicious and
 21 merited reporting to the DEA, at which we
 22 would shut the customer down.
 23 Q. Okay. So McKesson was fully
 24 capable at all times that you've been

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1 with the company of blocking an order it
2 deemed suspicious, true?
3 MR. SCHMIDT: Object to
4 characterization.
5 THE WITNESS: In 2008 we
6 implemented the CSMP. CSMP
7 automatically blocks orders that
8 exceed the threshold. And we --
9 that was cause for us to
10 investigate the orders and to try
11 to make a judgment as to whether
12 the customer was suspicious, and
13 if so, to stop selling controls to
14 them.
15 BY MR. BOGLE:
16 Q. Is it your testimony in 2005
17 when you were the distribution center
18 manager at Lakeland, you were incapable
19 of blocking an order that you found to be
20 suspicious?
21 A. I didn't have a lot of the
22 tools that I have today. I wish I did.
23 I wish I had tools that I have today to
24 make decisions back in 2005.

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1 Q. Did you ask for any of those
2 tools back in '05 to make sure that you
3 were blocking orders that you found were
4 suspicious?
5 A. The tools that I -- the
6 onboarding review that we were doing is
7 quite different. And I think that we
8 were perhaps naively relying on the state
9 sanction via licensure and registration
10 to help us in evaluating our customers.
11 Q. Yeah, my question was only
12 whether in 2005 or anytime prior to 2008
13 you ever asked for additional tools from
14 the company in order to block suspicious
15 orders.
16 A. I think I had discussions
17 with the regulatory department and
18 management to see if -- see how to do
19 what we need to do with regard to
20 customers.
21 Q. Did they give you any tools
22 while you were distribution center
23 manager at Lakeland to block orders that
24 you asked for, any tools that you asked

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1 for?
2 A. We developed the LDMP.
3 Q. The LDMP didn't block
4 suspicious orders, did it?
5 A. It identified them so that
6 we could instruct the nightshift don't
7 fill decisional hydrocodone for a
8 specific customer.
9 Q. When orders exceeded their
10 thresholds under the LDMP, they weren't
11 blocked, were they?
12 A. It was -- there wasn't a
13 threshold, per se. But there was a
14 designated level above which we would do
15 the investigation.
16 Q. There was an 8,000-unit --
17 dosage unit monthly threshold for
18 hydrocodone and oxycodone in the LDMP,
19 right?
20 A. I don't think it was called
21 the threshold at that point. It may have
22 been. But it was a level when a customer
23 reached that, it became a level that we
24 would assess the customer for.

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1 Q. But you wouldn't assess the
2 customer until the end of the month,
3 meaning they would exceed the threshold
4 during the month and you wouldn't take a
5 look at them until the end of the month,
6 right? That's how the process worked?
7 A. No, no. The LDMP was
8 periodically within the month.
9 Q. You received, when you were
10 distribution center manager, monthly
11 reports when the LDMP was in place that
12 told you when -- which customers exceeded
13 the 8,000-unit allocation, right?
14 A. We were doing those reports.
15 Q. Right. You received those
16 reports?
17 A. Ed Volakos worked for me.
18 We developed what was going on.
19 Q. I'm going to hand you --
20 MR. BOGLE: How much time
21 have I used?
22 THE VIDEOGRAPHER:
23 20 minutes.
24 BY MR. BOGLE:

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1 Q. I'm going to hand you what
2 I'm marking as Exhibit 43. Also marked
3 as 1.1864.
4 (Document marked for
5 identification as Exhibit
6 Mahoney-43.)
7 BY MR. BOGLE:
8 Q. Take a look at this here.
9 This is an e-mail at the bottom of the
10 first on the first page from December 7,
11 2007. Do you see that?
12 MR. SCHMIDT: I'm just going
13 to enter an objection on the
14 scope. I think this is well
15 outside the scope of anything that
16 I did. If I could have a running
17 objection.
18 MR. BOGLE: He raised the
19 issue. I wasn't going to go here,
20 but he raised the issue.
21 MR. SCHMIDT: I still think
22 it's outside the scope. May I
23 have a running objection?
24 MR. BOGLE: Sure.

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1 BY MR. BOGLE:
2 Q. See here in this e-mail from
3 December 7th of '07, subject "November
4 LDMP."
5 Do you see that?
6 A. Yes.
7 Q. And there's a chart that
8 starts on that page and goes into the
9 next page. You've seen charts like this
10 at the end of the month when the LDMP was
11 in place, right?
12 A. I believe so.
13 Q. Okay. And if you look here,
14 I'll show you a couple of these. On the
15 second page, for example, there's a
16 Franklin Pharmacy, four down. Oxycodone
17 hit their threshold November 13, 2007.
18 By the end of the month they received
19 22,250 doses of oxycodone.
20 Do you see that?
21 A. Yes.
22 Q. Okay. And if you look on
23 the -- back to the first page,
24 December 10, 2007, which we can agree

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1 which is ten days back to the end of the
2 month that we were just looking at,
3 November of '07, right?
4 A. Yes.
5 Q. You see for Franklin
6 Pharmacy, where there's a reference to,
7 "Appeared new last month for oxycodone.
8 Level 2 review is almost complete.
9 Blaine got Frank's signature on the
10 declaration, and I'm finishing up the
11 survey questionnaire."
12 Do you see that?
13 A. Yes.
14 Q. So this is a full ten days
15 after the end of the month where the
16 threshold is reached. In fact, the
17 threshold was surpassed on the 13th of
18 the previous month, and they still
19 haven't finished the review, have they?
20 MR. SCHMIDT: Object to the
21 characterization. Foundation.
22 BY MR. BOGLE:
23 Q. Nearly 30 days later?
24 MR. SCHMIDT: Same

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1 objection.
2 THE WITNESS: I see -- I see
3 what you're saying.
4 BY MR. BOGLE:
5 Q. That's what that shows,
6 right?
7 MR. SCHMIDT: Object to
8 foundation.
9 BY MR. BOGLE:
10 Q. Nearly 30 days later, they
11 say it's almost complete?
12 MR. SCHMIDT: Object to
13 foundation.
14 THE WITNESS: I'm not sure
15 what other interim reports may
16 have looked like.
17 BY MR. BOGLE:
18 Q. We know at the end of the
19 month they got to 22,250 doses, and we
20 know that nearly 30 days after they
21 surpassed the 8,000 number, the Level 2
22 review was almost complete. We can --
23 you can glean that from this document.
24 A. No, I --

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<p>1 MR. SCHMIDT: Objection. 2 Foundation. 3 BY MR. BOGLE: 4 Q. Is that the kind of realtime 5 review you're talking about? 6 MR. SCHMIDT: Same 7 objection. 8 BY MR. BOGLE: 9 Q. Under the LDMP? 10 MR. SCHMIDT: Same 11 objection. 12 THE WITNESS: One of the 13 things that causes -- 14 MR. SCHMIDT: Compound. 15 THE WITNESS: We implemented 16 the CSMP because it was hard and 17 it was automated. 18 BY MR. BOGLE: 19 Q. Okay. I'm talking about the 20 LDMP right now because you raised that 21 issue. 22 A. I understand. 23 Q. So this is an example for 24 one where these weren't being reviewed</p>	<p>1 level -- no. Well, what we would 2 do would be to say that they had 3 gotten to their -- the level, and 4 then we would try not to fill any 5 more. 6 And it was -- it was not 7 absolute, and it was -- that was 8 one of the reasons we wanted to go 9 to the automation and the CSMP. 10 BY MR. BOGLE: 11 Q. Okay. It wasn't absolute 12 meaning that there was no -- it was up to 13 the distribution center itself to decide 14 whether they wanted to fill above the 15 8,000 level. There was no hard blocking, 16 right? 17 A. There was no hard blocking. 18 MR. SCHMIDT: Object to the 19 characterization. 20 BY MR. BOGLE: 21 Q. You were asked about 22 Exhibit 1.1464, which was Exhibit 1 to 23 the deposition. It's the September 27, 24 2006, letter from Mr. Rannazzisi. You</p>
Page 583	Page 585
<p>1 and reviews being completed prior to the 2 customer exceeding the 8,000 allocation, 3 right? 4 MR. SCHMIDT: Object. 5 BY MR. BOGLE: 6 Q. We can see that? 7 MR. SCHMIDT: Object to 8 characterization. Foundation. 9 THE WITNESS: In my 10 experience, I recall sending 11 directions to the computer room, 12 the cage and the vault, saying not 13 to -- not to fill orders for these 14 customers for drugs that were on 15 the LDMP based on the reports that 16 we were getting in the middle of 17 the month. 18 BY MR. BOGLE: 19 Q. Until these reviews were 20 completed, right, these Level 1, 2, or 3 21 reviews? 22 MR. SCHMIDT: Objection. 23 Characterization. 24 THE WITNESS: No. Level --</p>	<p>1 again talked about the reference to 2 potentially blocking orders being new in 3 this letter. Do you recall saying that? 4 A. Yes. 5 Q. Okay. Can you name a time 6 prior to this letter in September 2006 7 where anybody at the DEA told you or 8 anybody at McKesson that you're aware of 9 that you didn't need to block orders? 10 MR. SCHMIDT: Objection. 11 Foundation. 12 BY MR. BOGLE: 13 Q. That you specifically don't 14 need to block orders, let them go? 15 A. No, I don't recall that. 16 Q. Okay. You were asked about 17 whether McKesson can impact the flow of 18 drugs into a specific area or region. Do 19 you recall talking about that? 20 A. I believe it was about the 21 awareness of the totality of drugs that 22 were going to a specific location. 23 Q. Okay. Well, you're familiar 24 with the statistic I believe that's even</p>

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1 on McKesson's website that one-third of
2 all pills distributed in the United
3 States come from your company, right?
4 Are you familiar with that stat?
5 A. I'm not sure that I've seen
6 it on the website. But I know that our
7 market share is roughly in line with
8 that.
9 Q. Right. So to say that you
10 guys at McKesson don't have an impact on
11 the amount of pills, and specifically
12 controlled substances that might appear
13 in any region in this country, is a bit
14 overstated if you guys, in fact, supply
15 one out of every three pills in the
16 United States, right?
17 MR. SCHMIDT: Objection.
18 Characterization.
19 THE WITNESS: I think that
20 an expression of our market share
21 in saying that one out of every
22 three opioids, I don't see the
23 linkage there necessarily as cause
24 and effect.

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1 BY MR. BOGLE:
2 Q. Oh, okay. So if you supply
3 one out of every three pills you don't
4 think if you're doing a bad job at
5 deciding what should be supplied, that it
6 has no impact?
7 MR. SCHMIDT: Objection.
8 Foundation.
9 THE WITNESS: In my
10 experience there are multiple
11 sources for controls or other
12 products in our industry.
13 BY MR. BOGLE:
14 Q. I don't believe you answered
15 my question, sir.
16 If McKesson is supplying one
17 out of every three pills in this country,
18 if they are doing a bad job at deciding
19 with controlled substances what should be
20 provided to customers, is it your
21 testimony that has no impact on potential
22 diversion?
23 MR. SCHMIDT: And I think he
24 did answer your question. Asked

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1 and answered.
2 BY MR. BOGLE:
3 Q. Your testimony has no
4 impact?
5 MR. SCHMIDT: Objection.
6 Mischaracterizes testimony.
7 BY MR. BOGLE:
8 Q. That was my question. Yes
9 or no, no impact, or yes, it does have an
10 impact?
11 MR. SCHMIDT: Objection.
12 Compound. And form.
13 THE WITNESS: Our role as a
14 third of the total market share,
15 clearly there is -- we're part of
16 the system and --
17 BY MR. BOGLE:
18 Q. A substantial part of the
19 system, right?
20 A. Yes, yes.
21 Q. And you were asked -- you
22 mentioned the DU-45 report a few times.
23 I think you referenced that as a
24 suspicious order report. Do you recall

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1 saying that?
2 A. I believe so.
3 Q. You know that's not, in
4 fact, what it is, right, it's not a
5 suspicious order report, is it?
6 MR. SCHMIDT: Objection.
7 Objection. Argumentative.
8 THE WITNESS: That was the
9 terminology that we used. It was
10 on the top of the green bar and
11 it's what we submitted to DEA.
12 BY MR. BOGLE:
13 Q. DEA took issue with that
14 being termed a suspicious order report,
15 didn't they?
16 MR. SCHMIDT: Objection.
17 Foundation.
18 THE WITNESS: In 2005 or '6
19 or whatever, yes.
20 BY MR. BOGLE:
21 Q. Yeah. They told you that
22 these DU-45 reports you're giving us are
23 not suspicious orders, they don't
24 establish compliance with the Controlled

<p style="text-align: right;">Page 590</p> <p>1 Substances Act, right?</p> <p>2 MR. SCHMIDT: Objection.</p> <p>3 Foundation.</p> <p>4 THE WITNESS: We had been</p> <p>5 submitting the DU-45. Said</p> <p>6 suspicious order report on it from</p> <p>7 the time I began until we received</p> <p>8 the letter from Rannazzisi.</p> <p>9 BY MR. BOGLE:</p> <p>10 Q. What I'm asking you though</p> <p>11 is the DEA made very clear to McKesson</p> <p>12 and you are aware of the fact, that fact,</p> <p>13 that the DU-45 did not constitute a</p> <p>14 suspicious order report under the</p> <p>15 Controlled Substances Act, correct?</p> <p>16 MR. SCHMIDT: Objection to</p> <p>17 characterization.</p> <p>18 THE WITNESS: I remember</p> <p>19 seeing that in a letter.</p> <p>20 BY MR. BOGLE:</p> <p>21 Q. Okay. And merely labeling</p> <p>22 something a suspicious order report</p> <p>23 doesn't make it one, right? Just</p> <p>24 slapping that title on it doesn't make it</p>	<p style="text-align: right;">Page 592</p> <p>1 CSMP Level 1, 2, and 3 process?</p> <p>2 A. Delran, yeah.</p> <p>3 Q. You recall the -- I'm sorry,</p> <p>4 that's the only copy I have.</p> <p>5 A. Yeah, I see.</p> <p>6 Q. Okay. And I think you said</p> <p>7 that the DEA was aware of the CSMP</p> <p>8 processes based on this presentation,</p> <p>9 right?</p> <p>10 A. We -- we had presented that</p> <p>11 at multiple locations. And the -- the</p> <p>12 content was largely similar.</p> <p>13 Q. Okay. But you know it's not</p> <p>14 the DEA's role or responsibility to sign</p> <p>15 off on any specific suspicious order</p> <p>16 monitoring program for a company, right?</p> <p>17 MR. SCHMIDT: Objection.</p> <p>18 Foundation.</p> <p>19 THE WITNESS: I have seen</p> <p>20 that expressed.</p> <p>21 BY MR. BOGLE:</p> <p>22 Q. They -- the DEA told you</p> <p>23 guys that multiple times, right?</p> <p>24 A. I read that, yeah.</p>
<p style="text-align: right;">Page 591</p> <p>1 a suspicious order report?</p> <p>2 MR. SCHMIDT: Objection.</p> <p>3 Form.</p> <p>4 THE WITNESS: That -- that</p> <p>5 title had been on it for years,</p> <p>6 before Rannazzisi sent us the</p> <p>7 letter that you're talking about.</p> <p>8 It was -- it was the terminology</p> <p>9 that we were using.</p> <p>10 BY MR. BOGLE:</p> <p>11 Q. Right. But you can call it</p> <p>12 whatever you want. That doesn't make it</p> <p>13 a suspicious order report, right?</p> <p>14 MR. SCHMIDT: Objection.</p> <p>15 Argumentive.</p> <p>16 THE WITNESS: I understand.</p> <p>17 Respective of time it's very</p> <p>18 helpful in terms of what we --</p> <p>19 what we could have done.</p> <p>20 BY MR. BOGLE:</p> <p>21 Q. Well, you -- along those</p> <p>22 lines, you talked about Exhibit 51. This</p> <p>23 meeting that you said you had with some</p> <p>24 people at the DEA where you outlined the</p>	<p style="text-align: right;">Page 593</p> <p>1 Q. Both before and after this</p> <p>2 presentation, right?</p> <p>3 MR. SCHMIDT: Objection.</p> <p>4 Foundation.</p> <p>5 THE WITNESS: We -- our</p> <p>6 presentation wasn't seeking</p> <p>7 approval.</p> <p>8 BY MR. BOGLE:</p> <p>9 Q. Okay. So you're just</p> <p>10 letting them know what you were doing,</p> <p>11 right?</p> <p>12 A. As part of the memorandum of</p> <p>13 agreement in 2008, that was a condition</p> <p>14 in which we were sharing our proposed</p> <p>15 system.</p> <p>16 Q. Okay. But our jury</p> <p>17 shouldn't take from your testimony on</p> <p>18 Exhibit 51 that the DEA signed off</p> <p>19 specifically in saying that this CSMP</p> <p>20 program was sufficient to meet your</p> <p>21 obligations under the Controlled</p> <p>22 Substances Act, should they?</p> <p>23 MR. SCHMIDT: Objection.</p> <p>24 Foundation. Characterization.</p>

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1 THE WITNESS: The DEA, as
2 far as I know, has always
3 expressed that they don't -- they
4 don't approve or sign off on those
5 kind of systems.
6 BY MR. BOGLE:
7 Q. Correct. You talked a
8 little bit too, about conducting due
9 diligence on internet pharmacies. Do you
10 recall that, in conjunction with the
11 discussion of the Lakeland show cause
12 proceeding?
13 A. Yes.
14 Q. Do you recall specifically
15 talking about the fact that you guys --
16 and you specifically at the Lakeland
17 distribution center -- did conduct due
18 diligence on internet pharmacies, right?
19 A. Yes.
20 Q. Okay. And so despite that
21 due diligence, as we looked at multiple
22 times here today, despite the due
23 diligence that you've referenced, these
24 seven pharmacies in the state of Florida

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1 that Lakeland was supplying did, in fact,
2 still receive more than 2 million dosage
3 units of hydrocodone in a three-month
4 period of time, right?
5 MR. SCHMIDT: Objection.
6 Asked and answered.
7 BY MR. BOGLE:
8 Q. You don't dispute that you
9 guys gave them those pills, correct?
10 MR. SCHMIDT: Objection.
11 Asked and answered.
12 THE WITNESS: No, I don't.
13 BY MR. BOGLE:
14 Q. Okay. And that was even
15 considering that you were doing due
16 diligence?
17 A. In the wake of the
18 information that we received, we
19 implemented a questionnaire on internet
20 pharmacy.
21 Q. Okay, okay. So maybe I
22 misunderstood.
23 MR. SCHMIDT: Were you --
24 were you finished with your

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1 answer?
2 THE WITNESS: And I also
3 visited several of the pharmacies
4 as a result.
5 BY MR. BOGLE:
6 Q. I'm sorry, I misunderstood.
7 So the due diligence that
8 you were talking about with your counsel
9 was after the DEA pointed out that you'd
10 given more than 2 million pills to these
11 seven pharmacies, right?
12 MR. SCHMIDT: Object to
13 characterization.
14 THE WITNESS: I think if
15 you -- if you look at the dates on
16 the questionnaires, they are, you
17 know, after -- they are in
18 November I think.
19 BY MR. BOGLE:
20 Q. Right. And the sales
21 started -- the DEA notified you of their
22 concerns back in September of 2005,
23 right?
24 A. Notified McKesson?

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1 Q. Yes.
2 A. Yes.
3 Q. And you were asked too
4 about, with the internet pharmacies after
5 these questionnaires were completed, the
6 decision to increase the thresholds or
7 the allotments I think is the term you
8 used, to up to 60,000 hydrocodone doses
9 per month. Do you recall that?
10 A. Yes.
11 Q. Okay. And now, the DEA
12 never specifically signed off on you guys
13 increasing the allotment back to 60,000
14 doses for any of those pharmacies, did
15 they?
16 A. I -- I was working in
17 concert with Don Walker.
18 Q. Right.
19 A. He had communications with
20 the DEA of which I had no knowledge.
21 Q. Okay. So to your
22 knowledge -- and I'll rephrase it then.
23 To your knowledge you can't point to our
24 jury anybody at the DEA that said

<p>Page 598</p> <p>1 60,000-dosage allotment for hydrocodone 2 per month for these seven pharmacies, 3 A-OK by us, right? 4 A. Not that I'm aware of. 5 Q. Okay. And the last thing 6 that I want to talk to you about, you 7 said that there was never a point in time 8 where there were DEA guidelines that 9 McKesson did not follow. 10 Did I -- did I write that 11 down correctly? 12 MR. SCHMIDT: Objection. 13 Characterization. 14 BY MR. BOGLE: 15 Q. If I didn't just tell me. 16 A. I'm not sure what the 17 context of that comment was. But where 18 the DEA for example warned us of 19 pharmacies and that kind of thing, we -- 20 we were inclined to listen to them. 21 Q. Okay. So let me ask you the 22 question a little differently to make 23 sure we're clear. Is it your testimony 24 today that McKesson at all points in time</p> <p>Page 599</p> <p>1 when you were with the company was in 2 full compliance with the Controlled 3 Substances Act? 4 A. I -- I think the agreements, 5 the settlement that we had, would 6 indicate that the DEA did not think that 7 we were in compliance. 8 Q. And specifically in the 2017 9 settlement, McKesson agreed, right? 10 MR. SCHMIDT: Objection. 11 Characterization. 12 BY MR. BOGLE: 13 Q. They accepted responsibility 14 for those failures, didn't they? 15 A. I remember that segment, 16 yeah. 17 Q. Right. You recall that, 18 don't you? 19 A. Yes. 20 MR. BOGLE: No further 21 questions. 22 MR. SCHMIDT: I just need a 23 minute. 24 THE VIDEOGRAPHER: Off the</p>	<p>Page 600</p> <p>1 record, right? The time is 2 7:46 p.m. Going off the record. 3 (Short break.) 4 THE VIDEOGRAPHER: The time 5 is 7:49 p.m. Back on the record. 6 - - - 7 EXAMINATION 8 - - - 9 BY MR. SCHMIDT: 10 Q. Mr. Mahoney, before you 11 received the letter from the DEA in 2006 12 that we discussed that was marked as 13 Exhibit 1. Did you understand that you 14 had a responsibility not only to report 15 suspicious orders but block suspicious 16 orders? 17 MR. BOGLE: Object to form. 18 THE WITNESS: No, I don't 19 think so. 20 BY MR. SCHMIDT: 21 Q. At that point in time, 22 before receiving that letter, you were 23 asked some questions about what's the 24 best way to prevent diversion. Do you</p> <p>Page 601</p> <p>1 remember being asked those questions? 2 A. Yes. 3 Q. Did you think the best way 4 to prevent diversion was to say to the 5 United States government, and 6 specifically the Drug Enforcement 7 Administration, "Hey, these are 8 suspicious orders"? 9 MR. BOGLE: Object to form. 10 THE WITNESS: Yes. 11 MR. SCHMIDT: Thank you. 12 That's all. 13 MR. BOGLE: Got nothing. 14 THE VIDEOGRAPHER: Okay. 15 Stand by, please. This marks the 16 end of today's deposition. The 17 time is 7:50 p.m. Off the record. 18 (Excused.) 19 (Deposition concluded at 20 approximately 7:50 p.m.) 21 22 23 24</p>
--	--

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1
2 **CERTIFICATE**
3
4
5 I HEREBY CERTIFY that the
6 witness was duly sworn by me and that the
7 deposition is a true record of the
8 testimony given by the witness.
9
10 It was requested before
11 completion of the deposition that the
12 witness, WILLIAM DE GUTIERREZ-MAHONEY,
13 have the opportunity to read and sign the
14 deposition transcript.
15
16 _____
17 MICHELLE L. GRAY,
18 A Registered Professional
19 Reporter, Certified Shorthand
20 Reporter, Certified Realtime
21 Reporter and Notary Public
22 Dated: December 3, 2018
23
24 (The foregoing certification
of this transcript does not apply to any
reproduction of the same by any means,
unless under the direct control and/or
supervision of the certifying reporter.)

Page 603

1 **INSTRUCTIONS TO WITNESS**
2
3 Please read your deposition
4 over carefully and make any necessary
5 corrections. You should state the reason
6 in the appropriate space on the errata
7 sheet for any corrections that are made.
8 After doing so, please sign
9 the errata sheet and date it.
10 You are signing same subject
11 to the changes you have noted on the
12 errata sheet, which will be attached to
13 your deposition.
14 It is imperative that you
15 return the original errata sheet to the
16 deposing attorney within thirty (30) days
17 of receipt of the deposition transcript
18 by you. If you fail to do so, the
19 deposition transcript may be deemed to be
20 accurate and may be used in court.
21
22
23
24

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1 - - - - -
2 E R R A T A
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4 **PAGE LINE CHANGE**
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1
2 **ACKNOWLEDGMENT OF DEPONENT**
3
4 I, _____, do
5 hereby certify that I have read the
6 foregoing pages, 1 - 606, and that the
7 same is a correct transcription of the
8 answers given by me to the questions
9 therein propounded, except for the
10 corrections or changes in form or
11 substance, if any, noted in the attached
12 Errata Sheet.
13
14
15
16 _____
17 WILLIAM DE GUTIERREZ-MAHONEY DATE
18
19 Subscribed and sworn
20 to before me this
21 _____ day of _____, 20____.
22 My commission expires: _____
23
24 _____
Notary Public

1	LAWYER'S NOTES		
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